requests have been arriving on Capitol Hill in bits and pieces, scattered through dozens of Presidential messages to Congress on all conceivable subjects. But nevertheless they are there and the New Frontier's henchmen in the House and Senate are busily trying to push them through to enactment.

And when you add them all up, you find the operating blueprint for a planned American economy, an economy manipulated by Government and directed from Washington, an economy in which the major decisions are relegated to the theorists and the bureaucrats, an economy in which the natural laws of supply and demand will play a smaller and smaller role in the business life of the Nation.

I want to drive home just what I'm talking about. This is not something planned for the future. It is already beginning to take definite shape. The mobilization of powers needed is already underway. The masterminds of this plan are the members of the President's Council of Economic Advisers—Walter Heller, James Tobin, and Kermit Gordon, all former economics professors whose job it is to shape wage and price policies, influence spending and fix economic "guidelines" and productivity formulas. The operators of the plan are Labor Secretary Arthur Goldberg, Commerce Secretary Luther Hodges, and Treasury Secretary Douglas Dillon. The enforcers are Attorney General Robert Kennedy, Defense Secretary Robert McNamara, and Agriculture Secretary Orville Freeman.

To implement this plan, President Kennedy is seeking vast new Federal powers in almost every important economic field. He is, in actual fact, asking for more power than any President has ever held when the country was not engaged in an all-out shooting war. He wants, for example, the power to cut taxes without the approval of Congress, the power to influence the supply and cost of money through his own Chairman of the Federal Reserve Board, the power to launch massive new public works programs on his own initiative, the power to cut tariffs on a huge, unprecedented scale, the power to exercise more controls over agriculture, the power to extend Federal influence into local communities.

Let us consider some of these unusual requests the President has made. Take his desire for the power to adjust tax rates. This has always been the exclusive prerogative of the Congress and has always been exercised for the sole purpose of raising revenue. Now the administration wants to use the taxing powers for economic planning. The President's message asked for standby power to cut personal income taxes by as much as 5 percentage points. The changes would be made when the White House planners decided that business conditions required such a shift. And where is the economist, regardless of how many university degrees he holds, who is qualified to decide some bright morning that taxes should be reduced to stimulate consumer spending? Of course, there is no certainty that a sudden stimulus to consumer spending would come at the right time. Nobody knows when a recession has run its course or when another one is about to begin. Economists always disagree and so do the businessmen. But think of what this power would do to business planning. Nobody could ever be sure how much taxes they might have to pay in a given year. And I would also remind you that if the President is given the power to lower tax rates at his own whim, the next step will be to seek power to raise taxes at the White House level. The power to tax is the power to destroy, and this has been proven time and time again throughout history. It is too great a power to entrust to a tiny handful of Government planners with a strong affinity for socialistic endeavors.

Another power request by the President that deserves special attention is tied up in legislation to let the Chief Executive name his own Chairman of the Federal Reserve Board. Now this sounds like an innocent enough request, at least to the layman. It isn't generally understood that Congress had delegated to the Federal Reserve Board great powers to fix monetary values on the assumption that the Board will remain independent. But if the Board should come under political domination by an administration that wanted easy money, the Reserve could make $100 billion available in new credit. This, also, is too great a power to entrust to a tiny handful of Government planners with a strong affinity for socialistic endeavors.

In the public works field, the President would like the Congress to abdicate its responsibility over appropriations and give him the right to spend billions of dollars on undefined public works, whenever and wherever he sees fit. If the administration's plan is adopted, the executive branch would have blanket authority to borrow for the purposes of public works from the reserves of the World Bank, the Housing and Home Finance Agency, the Federal Home Loan Bank, the Federal Savings and Loan Insurance Corporation, and even the Federal Deposit Insurance Corporation. It doesn't seem to bother the President that these funds were never intended to be used for ary purpose other than the protection and operation of the agencies which hold them. Nor does he see any apparent necessity for reserving to the people's representatives in Congress the right to appropriate funds for public works if they decide such make-work programs are necessary. This power to spend indiscriminately funds earmarked for other purposes is also too great to entrust to a tiny handful of Government planners with a strong affinity for socialistic endeavors.

Now, ladies, I suggest that the Republican Party could do the country no greater service than to launch an all-out assault on these attempted power grabs by the executive branch of the Government for the purpose of facilitating the transition to a planned economy. We could use more strong voices within the party to point out the dangers to freedom of choice and action which are bound up in these requests for more and more power for centralized government. I suggest that the American people will never know the true facts unless we Republicans tell them.

This party has a grave responsibility in the year 1962. Even though the President may honestly feel he is acting in the public interest, the fact remains that the powers he has asked for are dictatorial in nature. They go far beyond anything ever dreamed up during the New Deal and the Fair Deal. They go far beyond anything ever requested by a President in comparable times. And if they are to be denied, it will take the Republican Party to do it. This is why we need your very best, your very strongest efforts in these forthcoming election campaigns. We must have the increased manpower in Congress to fight the swift trend toward collectivism and all-powerful government. This is our job and, under the circumstances, it is more in the nature of a sacred trust.

SENATE

TUESDAY, MAY 8, 1962

The Senate met at 12 o'clock meridian, and was called to order by the President pro tempore.

The Chaplain, Rev. Frederick Brown Harris, D.D., offered the following prayer:

Eternal Spirit, without whose guidance our wisdom is but folly, we pray that Thy healing balm may restore our jaded spirits.

Keep us this day in serenity and confidence, as our hearts and minds are stayed on Thee. May we guard our words with the seal of understanding charity. Save us from being embittered by ingratitude, pettiness, or meanness and, by appeasement of evil, from turning coward in the day of battle.

We thank Thee for the lessons of the road we have traveled—we are warned by mistakes, encouraged by success, and enriched by experiences of gladness and sadness. Make us worthy of our great heritage. Grant us a kindling sense of national destiny as we face the duties of today and the problems of tomorrow.

We ask it in the dear Redeemer's name. Amen.

THE JOURNAL

On request of Mr. MANSFIELD, and by unanimous consent, the reading of the Journal of the proceedings of Monday, May 7, 1962, was dispensed with.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Maurer, one of its reading clerks, announced that the House had passed the bill (S. 2132) to approve the revised June 1957 reclassification of land of the Fort Shaw division of the Sun River project, Montana, and to authorize the modification of the repayment contract with Fort Shaw Irrigation District, with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 2446. An act to provide that hydraulic brake fluid sold or shipped in commerce for use in motor vehicles shall meet certain specifications prescribed by the Secretary of Commerce;

H.R. 4083. An act to reduce the frequency of reports required of the Veterans' Administration on the use of surplus dairy products;

H.R. 8434. An act to authorize the Secretary of Agriculture to sell and convey a certain parcel of land to the city of Mount Shasta, Calif.;

H.R. 8564. An act to amend the Federal Employees' Group Life Insurance Act of 1954 to provide for escheat of amounts of insurance to the insurance fund under such act in the absence of any claim for payment, and for other purposes;

H.R. 9561. An act to establish offices of the Veterans' Administration in Europe, and to authorize the furnishing abroad of hospital and medical care for service-connected disabilities;

H.R. 9647. An act to authorize the Secretary of the Interior to enter into an

amendatory contract with the Burley Irrigation District, and for other purposes;

H.R. 9736. An act to authorize the Secretary of Agriculture to permit certain property to be used for State forestry work, and for other purposes;

H.R. 10204. An act to amend section 47 of the Bankruptcy Act;

H.R. 10374. An act to amend section 6 of the Agricultural Marketing Act, as amended, to reduce the revolving fund available for subscriptions to the capital stock of the banks for cooperatives;

H.R. 10566. An act to provide for the withdrawal and orderly disposition of mineral interests in certain public lands in Pima County, Ariz.; and

H.R. 11217. An act to amend section 6112 of title 10, United States Code.

ENROLLED BILL SIGNED

The message further announced that the Speaker had affixed his signature to the enrolled bill (S. 1139) to amend the act granting the consent of Congress to the States of Montana, North Dakota, South Dakota, and Wyoming to negotiate and enter into a compact relating to the waters of the Little Missouri River in order to extend the expiration date of such act, and it was signed by the President pro tempore.

HOUSE BILLS REFERRED OR PLACED ON CALENDAR

The following bills were severally read twice by their titles and referred, or placed on the calendar, as indicated:

H.R. 2446. An act to provide that hydraulic brake fluid sold or shipped in commerce for use in motor vehicles shall meet certain specifications prescribed by the Secretary of Commerce; to the Committee on Commerce.

H.R. 4083. An act to reduce the frequency of reports required of the Veterans' Administration on the use of surplus dairy products;

H.R. 8434. An act to authorize the Secretary of Agriculture to sell and convey a certain parcel of land to the city of Mount Shasta, Calif.;

H.R. 9736. An act to authorize the Secretary of Agriculture to permit certain property to be used for State forestry work, and for other purposes; and

H.R. 10374. An act to amend section 6 of the Agricultural Marketing Act, as amended, to reduce the revolving fund available for subscriptions to the capital stock of the banks for cooperatives; to the Committee on Agriculture and Forestry.

H.R. 8564. An act to amend the Federal Employees' Group Life Insurance Act of 1954 to provide for escheat of amounts of insurance to the insurance fund under such act in the absence of any claim for payment, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 9561. An act to establish offices of the Veterans' Administration in Europe, and to authorize the furnishing abroad of hospital and medical care for service-connected disabilities; to the Committee on Finance.

H.R. 9647. An act to authorize the Secretary of the Interior to enter into an amendatory contract with the Burley Irrigation District, and for other purposes; placed on the calendar.

H.R. 10204. An act to amend section 47 of the Bankruptcy Act; to the Committee on the Judiciary.

H.R. 10566. An act to provide for the withdrawal and orderly disposition of mineral interests in certain public lands in Pima County, Ariz.; to the Committee on Interior and Insular Affairs.

H.R. 11217. An act to amend section 6112 of title 10, United States Code; to the Committee on Armed Services.

LIMITATION OF DEBATE DURING MORNING HOUR

On request of Mr. MANSFIELD, and by unanimous consent, statements during the morning hour were ordered limited to 3 minutes.

PROGRAM FOR TOMORROW

Mr. MANSFIELD. Mr. President, I wish to announce to the Senate that we shall meet at 11 o'clock tomorrow morning, and that at approximately noon the vote on the cloture motion will be held.

STANDBY TAX REDUCTION AUTHORITY ACT OF 1962

The PRESIDENT pro tempore laid before the Senate a communication from the President of the United States, transmitting a draft of proposed legislation to amend the Internal Revenue Code of 1954 to provide standby authority for temporary reduction in the individual income tax when needed to meet the objectives of the Employment Act of 1946, which, with the accompanying papers, was referred to the Committee on Finance.

BILLS AND JOINT RESOLUTIONS INTRODUCED

Bills and joint resolutions were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. MUSKIE:

S. 3264. A bill to authorize and direct the Secretary of the Treasury to cause the vessel *Eugenie II*, owned by J. C. Strout, of Millbridge, Maine, to be documented as a vessel of the United States with full coastwise privileges; to the Committee on Commerce.

By Mr. HART:

S. 3265. A bill for the relief of Despina Anastos (Psyhopeda); to the Committee on the Judiciary.

By Mr. JORDAN:

S. 3266. A bill to amend section 2 of the act entitled "An act to create a Library of Congress Trust Fund Board, and for other purposes," approved March 3, 1925, as amended (2 U.S.C., 158), relating to deposits with the Treasurer of the United States of gifts and bequests to the Library of Congress and to raise the statutory limitation provided for in that section; to the Committee on Rules and Administration.

By Mr. EASTLAND:

S. 3267. A bill for the relief of Gunther M. Hillebrand;

S. 3268. A bill for the relief of Mrs. Cheung Yuk-Lan; and

S. 3269. A bill for the relief of Kwong Foo Chin (also known as Hing Ton Chin and Tony Chin); to the Committee on the Judiciary.

By Mr. YOUNG of North Dakota:

S.J. Res. 185. Joint resolution to defer the proclamation of marketing quotas and acreage allotments for the 1963 crop of wheat; to the Committee on Agriculture and Forestry.

By Mr. JAVITS (for himself and Mr. KEATING):

S.J. Res. 186. Joint resolution authorizing the President to invite the States of the Union and foreign countries to participate in the U.S. World Trade Fair to be held in New York City, N.Y., from May 11 through May 22, 1962; to the Committee on Foreign Relations.

(See the remarks of Mr. JAVITS when he introduced the above joint resolution, which appear under a separate heading.)

RESOLUTION

INCREASED LIMIT OF EXPENDITURES BY COMMITTEE ON APPROPRIATIONS

Mr. HAYDEN submitted the following resolution (S. Res. 337); which was referred to the Committee on Rules and Administration:

Resolved, That the Committee on Appropriations hereby is authorized to expend from the contingent fund of the Senate, during the Eighty-seventh Congress, $25,000, in addition to the amounts, and for the same purposes, specified in section 134(a) of the Legislative Reorganization Act, approved August 2, 1946, S. Res. 180, agreed to July 27, 1961, and S. Res. 211, agreed to September 21, 1961.

INVITATION TO PARTICIPATE IN U.S. WORLD TRADE FAIR

Mr. JAVITS. Mr. President, I introduce, for appropriate reference, a joint resolution authorizing the President of the United States to invite the States of the Union and foreign countries to participate in the U.S. World Trade Fair, to be held in New York City from May 11 through May 26 of this year. I introduce the joint resolution on behalf of myself and my distinguished colleague from New York [Mr. KEATING].

The fair is an annual event, which is sponsored by the city of New York, and is held at the New York Coliseum.

A companion proposal has been introduced in the other body by Representative WILLIAM FITTS RYAN, of New York, which is to the same effect.

For the first time, Mr. President, the fair will have an export section devoted to goods and services of American manufacturers who wish to sell to foreign markets, signalizing the critical importance of the expansion of our export trade, upon which I have spoken in the Senate many times, and will not therefore at this time enlarge upon this point in this connection except to say, as I have said in the past, that it is of very great importance.

The fair also promotes tourism to the United States, with New York City as the focal point, but of course the people who come to the fair naturally will travel in many other parts of the country. The World Trade Fair annually draws an attendance of about 170,000 from every State of the Union and over 70 foreign countries. It is quite properly an economic stimulation measure in the interest of our country, and should have its sanction, which is described in the joint resolution.

Mr. KEATING. Mr. President, I am delighted to join with my distinguished senior colleague in supporting the resolution calling upon the President to officially invite foreign nations to participate in the second World Trade Fair to be held in the coliseum on May 11–12. Men and women will visit this fair from every State of the Union and from countless

foreign countries. Their purpose in coming here is to examine our products and to display their own in the furtherance of increased trade among the nations of the world.

Mr. President, vigorous efforts, such as this, to promote our exports contribute greatly to our ability to compete in foreign markets. Our productivity and our know-how are worth boasting about. This opportunity to show the nations of the world what we have achieved in many fields is a "showcase" for the whole world to view. I am hopeful that this sixth annual trade fair will be equally as successful as those of the past and that it will result in the expanded sale of American exports in markets the world over.

The PRESIDENT pro tempore. The joint resolution will be received and appropriately referred.

The joint resolution (S.J. Res. 186) authorizing the President to invite the States of the Union and foreign countries to participate in the U.S. World Trade Fair to be held in New York City, N.Y., from May 11 through May 22, 1962, introduced by Mr. JAVITS (for himself and Mr. KEATING), was received, read twice by its title, and referred to the Committee on Foreign Relations.

EXPROPRIATION OR SEIZURE OF PROPERTY OF AMERICAN NATIONALS IN FOREIGN COUNTRIES

Mr. HICKENLOOPER. Mr. President, I submit, for appropriate reference and printing, an amendment which I am proposing to S. 2996, which is now before the Senate Committee on Foreign Relations. I ask that the amendment be printed at this point in my remarks.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

On page 9, after line 13, insert the following:

"(d) At the end of section 620 add the following new subsection:

"'(e)(1) Notwithstanding any other provision of law, no assistance shall be furnished under this Act to any government or to any political subdivision or agency of such government, if such government or any political subdivision or agency thereof (A) has heretofore expropriated, nationalized or otherwise acquired the ownership or control, or hereafter expropriates, nationalizes or otherwise acquires the ownership or control, of any property owned directly or indirectly by any national of the United States, without providing immediate and effective compensation to such national as required by international law, justice, and equity and as determined, within ninety days of seizure or within forty-five days of the date of enactment of this subsection, whichever is later, by the Foreign Claims Settlement Commission, or (B) imposes upon such property discriminatory taxes or other exactions, or restrictive maintenance or operational conditions not imposed or enforced with respect to property of a like nature owned or operated by its own nationals or the nationals of any government other than the Government of the United States.

"'(2) For the purposes of this subsection the term "national of the United States" shall have the same meaning as that term is defined in section 301(2) of the International Claims Settlement Act of 1949, as amended.

"'(3) The Foreign Claims Settlement Commission of the United States shall have exclusive jurisdiction to determine the extent and amounts of any losses sustained by a national of the United States for the purposes of this subsection. For the purpose of such determination, the Commission may exercise to the extent consistent with the purposes of this subsection, the powers conferred upon it by the provisions of the International Claims Settlement Act of 1949, as amended.

"'(4) The appropriation of such funds as may be necessary for the Foreign Claims Settlement Commission of the United States to carry out its functions under this subsection is hereby authorized.

"'(5) No other provision of this Act shall be construed to authorize the President to waive the provisions of this subsection.'"

Mr. HICKENLOOPER. Mr. President, the amendment proposes to reach the problem of expropriation or seizure of property of American nationals in foreign countries.

The position of our Government has been repeatedly stated as that the sovereignty of a nation is inviolate, and that our country recognizes a nation's power to take over property for public purposes. However, in that connection the question of compensation for the property arises. Properties of American citizens have been expropriated and taken over by foreign governments without any compensation in fact or in reality being paid to the owners of that property. Constant delays in those countries and the ramified and tortuous judicial procedures which they engage in have in effect prevented Americans from getting paid for the property which has been taken over. That kind of nonsense must stop.

We have had examples of cases of expropriation and we have even noticed in the public press further contemplated expropriation or seizure of American property in at least one country in the world today.

The amendment would add a new subsection to the Foreign Assistance Act of 1961, as amended, which in effect and in words provides that no assistance can be furnished by the United States under this act to any country or any political subdivision of that country, when the national government or a political subdivision of that country has expropriated, nationalized, or otherwise acquired control or ownership of property of American nationals without providing immediate and effective compensation to such nationals as is required by international law, justice, and equity, and as determined within 90 days of the seizure, or within 45 days of the date of the enactment of this section, whichever is later, by the Foreign Claims Settlement Commission.

What I have said applies to any past expropriation which has not been settled for, and it also applies to any future expropriation or seizure.

One of the difficulties with the drawing of an amendment of this kind is the setting up of a fair and impartial forum or body to determine the value of the property seized. Arguments are made against setting up special boards or commissions, or similar bodies. I have named the Foreign Claims Commission as the proper and appropriate impartial body to assess the value of the property in foreign countries if such expropriation has occurred in the past or occurs in the future. The Foreign Claims Settlement Commission already possesses the criteria, and has a history of evaluation of American property abroad seized by foreign countries. There is a substantial history of the operation of the Foreign Claims Settlement Commission.

The amendment also provides that there may not be any waiver of the provisions of the act under any discretionary powers of the executive department.

It provides for the authorization of such funds as may be necessary for the Foreign Claims Settlement Commission to carry out the provisions of the amendment.

Mr. President, the amendment in no way attempts to tell foreign countries what they can do under their sovereignty, within their own countries. All it provides is that our money, which may be available under proper circumstances to those countries, cannot be used if they take the property of American citizens and do not pay for it on the basis of reasonable value. It does not say that they cannot expropriate or exercise the right of eminent domain, and it does not infringe upon their sovereignty in the slightest degree.

However it does provide what we will do with our money under circumstances where they refuse to do justice by the property of American citizens which they take under their sovereignty, and seize or expropriate.

I believe the amendment is equitable and fair. I think it is about time that our Government takes steps to show that, while we are in the process of helping other governments in one way or another, they do not take undue advantage of American citizens with respect to their property which is located in those countries, without doing justice to those people.

The PRESIDENT pro tempore. The amendment will be received, printed, and appropriately referred.

The amendment was referred to the Committee on Foreign Relations.

PETITION FOR CLOTURE—ADDITIONAL COSPONSOR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the name of the Senator from Connecticut [Mr. DODD] be added to the motion for cloture.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, May 8, 1962, he presented to the President of the United States the enrolled bill (S. 1139) to amend the act granting the consent of Congress to the States of Montana, North Dakota, South Dakota, and Wyoming to negotiate and enter into a compact relating to the waters of the Little Missouri River in order to extend the expiration date of such act.

THE RULE OF LAW—ITS VALUES, ROOTS AND LIMITATIONS

Mr. RUSSELL. Mr. President, one of the most significant celebrations at the University of Georgia, at Athens, Ga.—and, incidentally, the university is the oldest chartered State university in the country—is in connection with the commemoration of Law Day. This year, those exercises were held on May 5. There was in attendance a very large audience, including members of the bench and bar of the State, as well as students in the law school and in the other schools of the university, and quite a number of laymen who are friends of the university or whose children are students there.

The principal address of the day was delivered by the distinguished Senator from South Carolina [Mr. THURMOND]. I have just finished reading the address, and I have read it with great interest and profit. It is a scholarly and enlightening address on "The Rule of Law—Its Values, Roots, and Limitations." The distinguished Senator from South Carolina must have put a great deal of labor into the preparation of his speech, for it is one of the most erudite discussions of this subject I have ever read. I ask unanimous consent that it be printed at this point in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

THE RULE OF LAW—ITS VALUES, ROOTS, AND LIMITATIONS

(Address by Senator STROM THURMOND, Democrat, of South Carolina, for the annual Law Day at the University of Georgia, Athens, Ga., May 5, 1962)

Americans are an inventive people, and in no field have we been more prolific than in the designation of particular days and even weeks of special observance. Our propensity for special observances is a tribute to the industry of our society, for we are so busy that in the absence of a specially designated season for reflection on a particular subject, we might well gradually lose sight and appreciation of many of our bountiful blessings and even some of our fundamental values.

The designation of Law Day on a national basis is a signal tribute to the success of our governmental system. There are few nations, indeed, where the rule of law is such an established fact of life as to be in sufficient danger of being taken for granted by the majority of the society, that special attention to its function is felt necessary and desirable.

The extent to which such a special observance is justified, however, depends on the extent to which our society is brought to a deep and meaningful understanding of the rule of law in a civilized society. If we do no more than acknowledge the idea that the rule of law protects the traffic offender from the wrath of a judge who has burnt toast and weak coffee for breakfast, Law Day, though it may be perpetuated, will serve no more useful purpose than does Halloween. If Law Day is to be of real significance, we must cultivate an understanding of the rule of law, including its values, its roots—and even its limitations.

Of all the essentials of domestic tranquility, none is more essential than the rule of law. It is the prevalence of a rule of law that enables men in shaping their own destiny to predict with a reasonable degree of certainty the consequences of their conduct of relations with their fellow men. It is the rule of law that permits the peace of mind which comes from a sure knowledge that one has protection from the trespasses of other men. It is through the concept of the rule of law that men can realize and enjoy that impartiality of treatment which is so essential to human dignity.

For all the values which attach to the prevalence of the rule of law, it was by no means a concept simply and quickly conceived, nor easily implemented. As a fundamental prerequisite, a rule of law must have the support of society. The founder of international law, Grotius, concluded that society is "the source of law properly so called." In so concluding, he was not merely acknowledging the difficulty of enforcing a particular law which does not have the support of a large majority of society, such as that experienced by our own Nation with the 18th amendment; rather, he was confirming a particular conception of the nature of man which was originally that of the Stoics, and later common to all Christians. This concept attributes to man the power of reason by which he can achieve the society necessary for his existence.

It is through this power of reason that man forms fundamental ideas as to what is just and what is unjust; and in time, these fundamental ideas become beliefs, in the sense that although they can neither be proved nor disproved, they become, through the process of reason, reality.

Not every collection of human beings is susceptible to a rule of law. It is only when there is a community of beliefs that it becomes possible. This does not mean that all men must agree on all particulars, but it does mean that they must have common beliefs as to fundamentals of fairness and justice. Political differences may be settled peacefully and orderly, but only if there is agreement on the ground rules as to the methods by which such differences are to be resolved. Thus have the Western societies, through reason, reached a community of beliefs that the Judaic-Christian teachings of morality and relations between men are just and have consequently incorporated them into their prevailing rule of law.

The prerequisite of a community of beliefs, in order that a rule of law prevail, by its very nature imposes certain limitations on the application of the rule of law. The degree of community of beliefs in any society depends on the diversity of its various heritages. Our own governmental system, inaugurated in the Constitution, seeks to minimize this inherent limitation by resort to the device of federalism. At the national level of government, where there was the narrowest scope of community of beliefs due to the diversities of heritages across the Nation, there was structured a rule of law which encompassed the most fundamental beliefs. The rule of law of broader scope, consistent with the wider community of beliefs within their boundaries, was wisely left structured within the several States. In the process of erosion of the device of federalism which accompanies centralization of power in the National Government, the rule of law in our land will continue to be dissipated to the extent that it is sought to be applied in excess of the existing community of beliefs. It requires little insight to perceive that the powers exercised by the National Government have so far exceeded the community of beliefs in the Nation as to at least partially substitute the caprice of men for the rule of law.

Even more pertinent today than when uttered is the 1958 statement of the chief justices of the supreme courts of the States, in which they stated: "It has long been an American boast that we have a government of laws and not of men. We believe that any study of recent decisions of the Supreme Court will raise at least considerable doubt as to the validity of that boast."

Even to the casual observer in 1962, it is not just the decisions of the Supreme Court that raise such doubts, although such decisions have by no means forfeited their title as the principal purveyors of doubt.

There is another primary limitation on the rule of law, which pertains to the breadth of its applicability. By its very nature, the rule of law is limited to legal, as contrasted to political, questions. The relations of man to man, and of individuals to society, are of such a nature as to be subject to a rule of law. There are other questions which must be resolved by society which are not by their nature adaptable to resolution by any rule of law. Among these political questions is the determination of what individuals shall be empowered to make and administer the law, although this is but an example. The line between legal and political questions is obviously often hard to define, but as a general rule, any question which involves policy, as distinguished from law, does not lend itself to resolution by a rule of law.

Only recently we were provided with graphic evidence of our failure to make a distinction between legal questions, to which the rule of law is applicable, and political questions, the solutions to which do not by nature lend themselves to resolution by application of fixed rules such as those embodied in the rule of law.

I am referring to the case of *Baker* v. *Carr*, better known as the Tennessee legislative reapportionment decision, rendered by the U.S. Supreme Court on March 26 of this year. Commonsense dictates that legislative districting is a matter which by its very nature does not lend itself to solution by application of any general rule, due to the infinite number of variables and diversities of circumstances involved in each particular case. Attempted judicial adjudication of such issues must, therefore, necessarily involve nothing more than a resort to rhetoric as a shield for the judgment in each case of the individual or individuals who decide it, rather than any application of a rule of law. By such excesses is the status of laws degraded and the concept of a rule of law defamed.

What is the future of a rule of law? Domestically, it is what the American people make of it. If, through such observances as Law Day, there is rekindled both a renewed appreciation and understanding of the rule of law, we can look forward for years to come to the necessity of Law Day in order to remind Americans of the benefits of a noble concept which they are in danger of ignoring, because it is such an established fact of their lives. In order to enjoy this bounty, however, the American people must insure that the rule of law is confined within its inherent limitations, for attempts to extend it beyond the existing community of beliefs, or to political questions, will so dilute the concept as to render it ineffective and bountiless in even those areas of operation where it has a maximum potential value.

Until recent years, it would have been sufficient in any discussion of the concept of the rule of law to confine the consideration to its application in a society of any given nation-state. Today, the rule of law, as a concept, is being discussed and advanced in a new and different context. No contemporary contemplation of the rule of law would be complete without reference to its applicability on an international basis.

We have, of course, a body of rules, customs, and general practices between nations that is referred to as international law. By and large, it is of a nebulous character and is founded primarily on reciprocity and convenience. That it is law in the sense that nations generally abide by these rules on the relatively minor subjects covered thereby, and that the citizens of different nations customarily conduct their affairs with each other in accordance therewith

for the sake of convenience, we all readily acknowledge—with gratitude for the benefits of this degree of cooperation between nations and their citizens. To the extent that a rule of law is constituted by a system of jurisprudence, however, there is no international rule of law which prevails today, nor, when we examine the requirements for an international rule of law, is there likely to be any such in the foreseeable future. Indeed, the expression of hope for peace through an international rule of law in our present world surely either belittles the stature of the rule of law or advertises the existing lack of reality in viewing world conditions.

In the first place, those differences between nations which give rise to frictions of the order which do, or might, precipitate war are almost invariably political in nature, rather than legal. Our own Constitution and structure of government take this circumstance into consideration and provide accordingly. All domestic matters within the cognizance of the National Government, under the terms of the Constitution, are governed by laws enacted by the Congress. Foreign relations, however, involve political, rather than legal, questions and are conducted not by rules of law, but by policy, which is determined primarily by the executive, rather than the legislative, branch of the Government.

Even were all other factors permissive to the institution of an international rule of law, the political nature of the differences between States would preclude any securing of peace with freedom through this means. The political nature of almost all differences between nations is not the only factor which removes the hope for peace through an international rule of law from the realm of practicality, however.

There are even greater impediments to the application of a rule of law on an international basis than the inherent limitations of a rule of law which normally pertain. Within the society of a given nation or state, the prevailing rule of law is of general application—all citizens are subject to it, for, indeed, all citizens are the source of it. In considering the possibility of instituting an international rule of law, there must first be resolved the question of to whom it is to apply.

As a matter of first impression, this may appear to be no obstacle; but, upon closer analysis, it is a most serious impediment. In the field of international dealings, the nation-state is generally defined as a body of people organized politically within definite geographic borders under one government, sovereign in character, independent of external control, with the overall purpose of furthering the welfare of the people who organized it, keeping order and administering justice internally and protecting the rights of its citizens abroad. One would assume, therefore, that resort to this definition, based on reason and experience, would be the logical choice for determining to whom an international rule of law would apply, just as the definition of legal competence is the yardstick of determining what or who is sui juris in a given domestic jurisdiction.

Yet in the present political structure of the world, this definition would surely exclude the Communist instrumentality which rules and dominates about 26 percent of the world's land mass and one billion eight and one-quarter million of the world's people; for neither the Soviet Union, nor any of the other Communist-dominated territories, even approach the requirements of this definition. Beyond a doubt, and despite the general imperception of the fact by the Western World, Communist political structure constitutes a radical innovation.

In the first place, the Soviet political structure is not based on a concept of national unity, but partakes of a completely international character. This international character of the Communist political structure is revealed in the Constitution of the Union of Soviet Socialist Republics for 1924, which states in section 1: "Access to the Federation is open to all Soviet Socialist Republics, those existing now as well as those which are bound to spring up in the future. The new Federation * * * will be a reliable rampart against world capitalism and a new decisive step toward the union of the toilers of all countries in the World Soviet Socialist Republic."

The text of the subsequent Soviet constitution of 1936 was, for practical reasons, much less outspoken as to the international and class character of the political structure therein described. Even this constitution, however, clearly reveals an essential incompatibility with the traditional concept of a nation-state.

Article 14C of the Soviet constitution of 1936, which treats the incorporation of new republics into the union, clearly demonstrates that in the contemplation of this document, the territory of the U.S.S.R. is not a fixed, well established quantity. Under its provisions, Soviet territory may be increased without limits until the whole world is engulfed. This is a characteristic peculiar to the Communist political entity.

The very term "Soviet" does not reflect the ethnical or historical origin of a people, but only the type of political administration to which they are subjected. It is consequently not limited to those nationalities now occupying Soviet territory, but may at any time include other nationalities, provided only that they live under a Soviet-type of administration. It follows that tomorrow the Soviet people could be joined by Poles, Hungarians, Rumanians, Chinese, and, conceivably, even Americans, just as it was joined by Lithuanians, Estonians, and Latvians in 1940.

It is, however, within the concept of sovereign state authority that the Union of Soviet Socialist Republics, as exercised through the agency of government, which conforms in the least degree to our concept of that feature of statehood. The Soviet government, or the system of Soviets or councils beginning with the Supreme Soviet and ending with the village Soviet, is by no means a policy or lawmaking instrumentality, but rather a lever of power. The official Soviet textbook entitled "Soviet Constitutional Law," published in 1948, describes the nature of the Soviets in the following manner:

"The basic transmission belts and levers in the system of the dictatorship of the working class are the Soviets, trade unions, cooperative associations, youth, and other public organizations. Among transmission belts and levers the most important place in the system of the dictatorship of the proletariat is occupied by the Soviets. Together with their numerous ramifications in the center and in the provinces under the forms of administrative, economic, military, cultural, and other state organizations, the Soviets constitute the state apparatus in the true sense of the word."

It is obvious from this description that the "Soviets" are but transmission belts and levers of power, and the origin of power lies elsewhere. Even from this description we are aware that this origin is not in the people. Where then does this power lie?

According to each of the successive constitutions of the U.S.S.R., "The Union of Soviet Socialist Republics is a Socialist state of workers and peasants." Again relying on official Communist sources—in this instance the "Short Philosophical Dictionary"—we find in the definition of the Socialist state by Lenin, the following:

"In its essence the Socialist state is a dictatorship of the proletariat. The importance and role of the Soviet Socialist state consists in that it is the main weapon in the hands of workers and peasants for the victory of socialism and for the protection of socialist achievements by the toilers from capitalist encirclement. The leading force of the Socialist state is the Communist Party, directing the whole development of the Soviet Socialist society."

If by any remote chance Lenin's definition leaves a doubt as to the identity of the source of power in the Communist state, Stalin stated, without equivocation, in "The Problems of Leninism" that "the (Communist) Party exercises the dictatorship of the proletariat."

The role of the Communist Party cannot be compared with the role of a political party in a democratic country, or even a political party in a country with an autocratic or totalitarian, but nationalistic, regime. The Communist Party of the Soviet Union is but a section of an international, or supranational, movement, whose designs, interests and activities extend into the far reaches of the globe. Indeed, Stalin himself characterized the Soviet Constitution as international for he said in November of 1936 with reference to then-new draft of the U.S.S.R. Constitution: "The draft of the new Constitution of the U.S.S.R. is, on the contrary, profoundly internationalistic."

Thus it is quite clear that the Communist political structure is not national, but rather is international in character, and, as such, in no way coincides with the traditional concept of a nation-state.

Even could this question of identification and description of the entities to which an international rule of law would apply be resolved, there would still remain unsatisfied the prerequisite for the community of beliefs fundamental to any rule of law. Quite obviously, any international rule of law, to be worth the effort, must be generally applicable. This means, in effect, that all powers who cannot be coerced without great damage to the remainder of the world, must agree and consent to the rule of law. Since any attempted coercion of the Communist countries would defeat the purposes of peace through an international rule of law, the only remaining alternative would be for the Communist powers to concur in the beliefs on which the rule of law is founded. This precludes, for now and the foreseeable future, the institution of an international rule of law.

There is a vast gulf between Communist thinking and philosophy and that of the Western World which absolutely negates any community of beliefs. Through the process of reason, civilized societies accepted the Judiac-Christian teachings as fundamentally just. Not so the Communists. To understand the depth of difference on this one point, consider the negotiations on the wording to the Preamble of the Declaration of Human Rights included in the United Nations Charter. The American proposal was drawn from the Declaration of Independence, in the words: "All men are created equal," to which the Communists vigorously objected, and, incidentally, carried their point. The section, as adopted, uses the words, "All men are born equal."

The gulf is more fundamental than even this illustration would indicate, however. The rule of law which is utilized in traditional Western civilization is founded on a community of beliefs arrived at by the process of reason. The very existence of a community of beliefs is predicated, as Grotius concluded, on the concept of the nature of man which attributes to man the power of reason by which he can achieve the society necessary to his existence. It is at this fundamental level at which the breach between Communists and non-Communists appears, for the Communists deny the power of man to reason and thereby to develop concepts. This is not mere abstract theory of the Communists—it is a guide to their

actions and thought which finds implementation, particularly, in their political orientation and structure.

Consider, for example, the role which a constitution occupies in Communist political theory and practice. We are all aware of the short life of any given Soviet constitution. Following the first Communist constitution in 1918, there were new ones in 1924, 1936, 1937, 1952, and in 1957. Only last week, Khrushchev announced that it was time for a new one, which is now in the process of being drafted. Now the short life of a Soviet constitution is not due to any political fickleness of the Communists. Their dogged persistence in the teachings of Marxism-Leninism have remained a continuing scourge to freemen throughout the years. Rather, their abandonment of each constitution in turn for an updated version stems from the most fundamental premise of Marxian philosophy—that the ideas and conclusions of men are not the result of reason as we understand it, but rather a mere reflection of their material environment. By adding to this the theory of economic determinism, Marxian logic concludes that the type of society and of any given political structure are dictated by the prevailing means of production and the degree of productivity which it accomplishes.

This is clearly indicated by the speech of Stalin upon the adoption of the Soviet Constitution of 1936, in which he explains why there was need of a new constitution, and why it took its particular form. Stalin stated:

"A program deals mainly with the future, a constitution with the present.

"Two examples by way of illustration.

"Our Soviet society has already, in the main succeeded in achieving socialism; it has created a socialist system, i.e., it has brought about what Marxists in other words call the first, or lower, phase of communism. Hence, in the main, we have already achieved the first phase of communism, socialism. The fundamental principle of this phase of communism is, as you know, the formula: 'From each according to his ability, to each according to his work.' Should our constitution reflect this fact, the fact that socialism has been achieved? Should it be based on this achievement? Unquestionably, it should. It should, because for the U.S.S.R. socialism is something already achieved and won.

"But Soviet society has not yet reached the higher phase of communism, in which the ruling principle will be the formula: 'From each according to his ability, to each according to his needs,' although it sets itself the aim of achieving the higher phase of communism in the future. Can our constitution be based on the higher phase of communism, which does not yet exist and which has still to be achieved? No, it cannot, because for the U.S.S.R. the higher phase of communism is something that has not yet been realized, and which has to be realized in the future. It cannot, if it is not to be converted into a program or a declaration of future achievements.

"Such are the limits of our constitution at the present historical moment.

"Thus, the draft of the new constitution is a summary of the path that has been traversed, a summary of the gains already achieved. In other words, it is the registration and legislative embodiment of what has already been achieved and won in actual fact."

The point Stalin is making is that in accordance with Marxian theory, the new system of advanced production has caused a change in the governmental form which should be reflected in the constitution. To the Soviets, a constitution is but a mirror of what the government has become through improved means of production.

As is obvious from Stalin's remarks, the Communists deny, both in ideology and practice, the ability of man to devise a concept through the process of reason. With so fundamental a point of departure, it is easy to perceive the differences in approach to such concepts as morality, peace and truth. "Morality" is defined by Communists as any course of conduct, including lying, stealing, and murder, which advances the cause of world communism. "Peace," according to Communist ideology, is that state of existence in which there is no resistance to Communist rule. They define "truth" as that which best serves the advancement of world communism.

This fundamental chasm as to the very nature of man absolutely precludes the community of beliefs essential to a rule of law.

A true appreciation of the rule of law includes a knowledge of its values, its roots, and its limitations. We can enjoy its benefits only so long as we keep it in proper and objective perspective.

Its legitimate applicability is to legal, rather than political, questions, and in only those collections of human beings in which there exists a community of beliefs. Domestically, we can continue to enjoy the benefits of the rule of law only so long as, and to the degree that, we observe its limitations through and adherence to the device of federalism and respect its inappropriateness for the resolution of political questions.

The existing, and the even greater deserved, faith in the rule of law in Western civilized nations can be destroyed by claims that there is ground for hope for peace through an international rule of law, for such claims can only lead to frustration and failure because, above all, of the absence of the prerequisite community of beliefs. There is no easy road to peace in a world where communism exists, except it be a peace without freedom; and to this, we can never submit.

Law Day will serve its purpose when freemen rededicate themselves to the rule of law, with all its inherent limitations, in the realization of the bountiful benefits flowing from its objective use for the purposes to which it is applicable. Let us not profane the rule of law by relegating it to the never-never land of idealism, but rather let us pursue a course which will ultimately result in the extinction of communism, and thereby, possibly, in a community of beliefs that would make an international rule of law feasible in the area of nonpolitical questions.

VOTING HABITS OF THE PEOPLE OF KANSAS

Mr. CARLSON. Mr. President, Kansas is one State that does not have a literacy test as a requirement for voting. The matter now before the Senate, therefore, is of no direct interest to the people of Kansas.

We do have in the law several requirements, such as residency, permanent registration, and other provisions, with which our citizens must comply in order to be qualified to vote.

Our secretary of state, Paul R. Shanahan, recently wrote an article on the requirements, as well as other information regarding the voting habits of the people of Kansas. I ask unanimous consent that the article be made a part of my remarks in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ARE YOU A MEMBER OF THE THIRTY PERCENT?
(By Paul R. Shanahan, secretary of state of Kansas)

The State of Kansas has a population of 2,146,154 as indicated by the census of March 1, 1961. Of this number it is estimated that 1,315,000 are of voting age. At the last general election 928,825 votes were cast. This is the highest vote total ever cast at a Kansas general election, but it represents only about 70 percent of the eligible voters. Twenty-eight States voted a higher percentage than Kansas, the highest being Idaho with slightly over 80 percent, followed closely by New Hampshire, Utah, and North Dakota. Twenty-one States were lower than Kansas, the lowest being Mississippi with slightly more than 25 percent.

What is the reason for this apathy on the part of Kansas citizens? The answer to this question can, in most instances, be found in the archaic and restrictive State election laws. This, however, is not true in Kansas because the laws in this State governing the conduct of elections are as up-to-date as most any other State and provide the following conditions:

1. Residency: Six months in State, 30 days in ward or township.
2. Permanent registration.
3. No poll tax.
4. No literacy tests.
5. Registration by mail for sick and disabled and voters absent from the State.
6. Absentee voting by sick and disabled.
7. Absentee out-of-State voting.
8. Absent within State voting.
9. Aid for blind to vote.
10. Voting by members of Armed Forces and spouse, registration requirements being waived.
11. Registration possible at all times except 10 days before elections (20 days in Shawnee, Wyandotte, Sedgwick Counties and parts of Johnson County).

The right to vote is a privilege which all citizens should guard zealously. Good government results from an informed public expressing themselves through the ballot.[1]

Political parties have a responsibility to create voter interest by offering to the people the type of men and women as candidates whose integrity is beyond question, who command respect and confidence, who will place the welfare of the people foremost and who will go out in election years, meet the people, and discuss with them the issues and problems of the State or county.

By providing worthy candidates who will campaign actively, political parties can inspire voters to become more interested in the affairs of their government, resulting in a higher voting percentage.

ARE TAX HAVEN OPERATIONS USED TO EVADE INCOME TAXES BY THE GREAT MAJORITY OF AMERICAN FIRMS WITH DIRECT FOREIGN INVESTMENTS?

Mr. CURTIS. Mr. President, I ask unanimous consent to have printed at

[1] This year a constitutional amendment will be submitted to the people for a vote which will provide a method of voting for President and Vice President by citizens of the United States who have not lived in the State long enough to acquire voting rights and have lost their voting privileges in the State from which they moved. They will be qualified to vote in Kansas for President and Vice President after a residence of 45 days.

this point in the RECORD a statement by me, entitled "Are Tax Haven Operations Used To Evade U.S. Income Taxes by the Great Majority of American Firms With Direct Foreign Investments?"

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

ARE TAX HAVEN OPERATIONS USED TO EVADE U.S. INCOME TAXES BY THE GREAT MAJORITY OF AMERICAN FIRMS WITH DIRECT FOREIGN INVESTMENTS?

(Statement by Senator CURTIS)

The administration justifies its drastic proposals with respect to the taxation of foreign source income to avoid tax evasion. This view is consistent with that expressed by the distinguished junior Senator from Tennessee who on March 1, 1962, CONGRESSIONAL RECORD, page 3245, recommended the termination of tax haven abuses in his remarks on this broad problem which is of concern to all of us.

In describing possible so-called tax haven abuses, he said that they fall into two general types. I shall quote directly from the CONGRESSIONAL RECORD of March 1, 1962:

"First, there are the operations which have as their primary purpose the transfer of profits into a tax haven corporation in a way which avoids or evades any substantial taxation by the country where the profits legitimately originate. This may involve diverting funds which actually represent profits earned in the United States, and which should be taxed in the United States, into a tax haven. In other cases profits arising in some foreign country having a tax system somewhat similar to our own may be diverted into a tax haven. The second general type of abuse centers around the uses to which funds may be put once they have been accumulated in a tax haven."

Elimination of the first type of abuse referred to by our distinguished colleague can be prevented without the enactment of any new legislation. Its solution requires effective enforcement of the present statutes, which is the responsibility of the Secretary of the Treasury.

The Internal Revenue Code presently contains provisions which through effective enforcement should be adequate to enable the Treasury to correct abuses such as the diversion of taxable income to foreign corporations. Furthermore, well-established judicial doctrine permits the disregard of corporate shams which are set up for tax evasion or improper tax avoidance rather than sound business purposes. It is believed, therefore, that present remedies available to the Treasury are sufficient to correct abuses.

There is no doubt that from an administrative point of view the Treasury has encountered considerable difficulty in locating and eliminating tax evasion devices because of a lack of available information regarding the foreign operations of American corporations and their foreign subsidiaries. However, this situation will now be corrected as a result of the enactment in 1960 of section 6038 of the code which requires domestic corporations to submit annually to the Treasury detailed information regarding activities between domestic corporations and their controlled foreign corporations and the latter corporation's foreign subsidiaries for 1961 and subsequent years.

In addition, section 6046 of the code, also enacted in 1960, requires the filing of an information return with respect to the organization or reorganization of any foreign corporation. The return for this purpose, form 959, requires considerable detailed information including a complete statement of the reasons for and the purposes sought to be accomplished by the organization or reorganization of the foreign corporation.

Furthermore, under its present administrative powers, the Internal Revenue Service is in the process of obtaining similar and more detailed information regarding transactions between domestic corporations and their foreign subsidiaries for all open years through special audit procedures. Although this latter procedure has imposed a tremendous burden on corporate taxpayers, I believe that the Treasury will soon be in a position readily to ascertain whether taxpayers with foreign operations are satisfying their proper tax liability. With this information becoming available, the Treasury should be able to make suitable recommendations as to what type of statutory provision is necessary to correct improper tax avoidance without penalizing legitimate foreign investment which is beneficial to the national economy.[1]

"One example which was cited by the junior Senator from Tennessee to illustrate a tax haven abuse referred to a corporation manufacturing electric controls which sells its products in many foreign markets. Prior to 1957, he said that all foreign sales constituted exports negotiated from the United States; subsequently, a tax haven subsidiary was established in Venezuela. He reported:

"There was a very low markup on sales to the Venezuelan corporation, and a high mark-up on sales from the Venezuelan corporation to the real customer. In this way over $1 million of income which was really earned in the United States was diverted to Venezuela, completely escaping U.S. taxation, over a period of less than 3 years." [2]

Certainly the Commissioner of Internal Revenue has the authority to reallocate income under such conditions between the United States parent and the Venezuelan base company.

The many witnesses from the business community who appeared before the House Committee on Ways and Means, without exception urged that any necessary steps be taken to curb the use of tax havens as a means of illegally evading taxes or furthering tax avoidance through procedures which divert income earned in the United States into tax havens.

I was particularly impressed by the statements from certified public accountants. As an example of the attitude expressed by accounting firms, I shall refer to the testimony of Mr. Leon O. Stock, a principal in the national accounting firm of Peat, Marwick, Mitchell & Co. Mr. Stock even offered his services based on widespread experience gained through servicing accounts all over the world in assisting the Internal Revenue Service to develop a training program for its agents assigned to auditing returns involving foreign corporations.

Mr. Stock said:

"We feel that the sham transaction ought to be eliminated—the sham company, rather, ought to be eliminated—and we think it can be eliminated, and we, in practice, are ready to cooperate with the Internal Revenue Service. We are prepared to assist in their training program, to expose ourselves and our experience so that these sham transactions can be picked up." [3]

Furthermore, he referred to several sections of the existing code which, if properly implemented, might eliminate the difficulties which have been experienced in dealing with the small minority who seek to evade their taxes. Mr. Stock first referred to section 7701. He believes that the application of this section, which clearly defines a domestic corporation, would be useful in detecting improper transfers of profits from a U.S. corporation to a tax-haven company. Once again, he said:

"I believe that any foreign corporation which is controlled and managed in the United States, where all substantial functions are performed in the United States, ought to be redefined as a domestic corporation, so that between the two prongs we ought to be able to successfully wage a war against the sham and knock it out of existence." [4]

Mr. Stock then urged that a broader application be made of section 482 which requires arm's-length transactions involving a domestic corporation and a foreign subsidiary. He also referred to the sections of the code which the Congress recently enacted and which I have already discussed; namely, 6038 and 6046. Finally, he urged that the Commissioner of Internal Revenue make full use of section 367, which prohibits a tax-free transfer of property, tangible or intangible, to a foreign corporation without prior approval.[5]

All of these suggestions should be aggressively pursued, and if evidence shows the need for future legislation in order to deal with specific abuses, recommendations to curb them should be transmitted to the Congress. I can assure every Senator that as a member of the Finance Committee I will certainly analyze them carefully, and if it seems likely that they will curb abuses without creating new deterrents that impede proper commercial activities, I will certainly support the enactment of appropriate legislation.

For example, it may be necessary to redefine the income test of foreign personal holding companies.

The whole area of so-called tax havens is so complex that I believe it will simplify our consideration of this problem if we do not concentrate our attention on the problems of tax avoidance and evasion. The administration and the distinguished junior Senator from Tennessee are proposing the elimination of a device which has proved beneficial to our foreign trade and commerce even though it has been used in an entirely proper manner. There is no evidence whatsoever that such a step is necessary in order to correct abuses which every Senator recognizes.

The second general type of so-called abuses portrayed by the junior Senator from Tennessee in my opinion does not constitute an abuse. On the contrary, so-called tax havens merely provide American enterprise with the same competitive positions throughout the world that foreign firms enjoy. Furthermore, their existence implements the expressed domestic and foreign policy objectives of most developed nations.

It is most unfortunate that the term "tax haven" has been applied to a type of business organization that serves a useful and worthwhile purpose. Many witnesses have suggested a more appropriate title for such companies; they describe them as base companies. In effect the term is applied to corporations that are located in countries which levy a lower rate of taxation on earnings derived from sources outside of the country of incorporation.

Switzerland and Panama are two countries whose laws encourage the incorporation of base companies. For example, "Swiss charters offer convenience for international holding companies which, to carry on business, must have subsidiaries chartered and taxed under laws of different countries. A Swiss holding company makes it possible to channel earnings from an established subsidiary in one foreign country into new investments in another foreign country without the imposition of U.S. tax." [6]

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[1] President's 1961 tax recommendations, hearings before the Committee on Ways and Means, House of Representatives, 87th Cong., 1st sess., vol. 4, pp. 2660–2661.

[2] CONGRESSIONAL RECORD, Mar. 1, 1962, op. cit., p. 3245.

[3] President's tax recommendations, op. cit., p. 3275.

[4] Ibid.

[5] Ibid., p. 3276.

[6] Ibid., p. 3325.

Normally a base company in Switzerland serves as the administrative, merchandising and technical service arm of all international operations for foreign firms whose headquarters are not located in Switzerland. The operations of these base companies are recognized by all European countries as serving their own international interests. Once again, I shall refer to the testimony of Mr. Stock. In order that his concise explanation of the operations of both Swiss and Panamanian base companies may be clearly understood, I quote an excerpt from his testimony before the House Ways and Means Committee:

"Now, a great deal has been said about Switzerland, the manner in which Swiss affiliated sales companies are being used to reduce the overall tax.

"The Secretary of the Treasury testified that, while the German tax may be 51 percent, by utilizing a sister sales company in Switzerland and having the sales company buy the German production for sale in the other parts of Europe, the Swiss company traps the selling profit in Switzerland, relieves the selling profit of the German tax of 51 percent, and substitutes for that 51-percent tax a Swiss tax of 8 percent or 10 percent, thereby reducing overall the German tax from 51 percent to something less than 30 percent.

"Now, that, gentlemen, is perfectly true. The German tax is reduced through the utilization of a Swiss company but, by reducing the German tax, we are enhancing the U.S. tax because if we had no Swiss tax we would pay our 51-percent tax to Germany and, on the remission of dividends back to the domestic parent company, there would be no U.S. tax on those dividends because of the offsetting credit for German taxation.

"By reducing the German tax or by accumulating profits in a Swiss company subject to a 10-percent tax on the distribution of dividends from Switzerland back to the domestic parent company there will be approximately a 40-percent tax paid here after allowance for the Swiss credit.

"Therefore, if we are talking about tax abuse in Switzerland, my query is, Tax abuse in respect to whose revenue?

"Now, the Germans do not object to this arrangement. As a matter of fact, I personally have negotiated in Germany an arrangement with the German authorities where they examined the intercompany pricing between the German company and the sister sales company of Switzerland and where they have satisfied themselves that the intercompany pricing is such that what the German company gets is a fair manufacturing profit subject to German taxation, and that is all it is entitled to, and what the Swiss company gets is a fair selling profit subject to the reduced Swiss tax, all of which inures to the benefit of the U.S. revenue.

"Now, I might also add that, where the German revenue is abused through a Swiss sales company, where the intercompany pricing is determined not to have been on an arm's-length basis, then to that extent the pricing is restated by the Germans and profit is taken away from the Swiss company and taxed to the German company.

"Under those circumstances, the Germans take the position that, to the extent that there has been an arbitrary shifting of profit to a Swiss company, that arbitrary shifting is reversed, but, since the money is lodged with the Swiss company, the Germans contend that there has been a constructive dividend to the U.S. patent and subject it to a 25 percent withholding tax.

"Under those circumstances the penalty in Germany for arbitrary pricing between a Swiss and German company is approximately 65 to 70 percent in additional German tax. That makes it imperative that pricing between the two be put on a third party basis.

"Now, we are also told that the proposed legislation is necessary in order to equalize the U.S. tax between the domestic company selling directly globalwise and the foreign subsidiary. Now, 'equalization' is a very elusive term and we can find in this case of equalization a lack of equalization. Equalizing with respect to whom? It has been testified here I assume for the last 3 days that the important thing is to equalize the controlled company in Europe or elsewhere with its foreign competitors and not with some domestic U.S. corporation.

"Now, if your foreign competitor is permitted to set up a company in Panama for export and which is recognized by the foreign government, then if we are not permitted to do the same thing we are obviously put at a competitive disparity and, gentlemen, the European countries do permit the utilization of foreign sales companies and the European countries do not tax undistributed profits to their nationals until it is actually repatriated." [7]

Although attention has been centered on so-called tax haven abuses, it is essential that every Senator recognize that all European countries encourage the investment and trading activities of their nationals in many ways.

France, Italy, the Netherlands, and Switzerland impose virtually no tax on profits derived from foreign branches and have easier rates on dividends from qualified foreign subsidiaries. Belgium reduces the proportional tax on foreign profits to a fraction of the regular rate. In Germany, the tax authorities can extend special treatment (up to complete exemption) to income generated by business activities abroad that are of interest to the German economy. France, Germany, and Sweden have negotiated tax treaties with other countries which provide that their citizens will be totally or partially exempt from taxation on income realized from investments in treaty countries.[8]

Furthermore, the United Kingdom, a country known for stringent taxes, extended tax deferral to so-called Overseas Trading Corporation in 1957. Such organizations are known as OTC. I am sure that most Senators will remember that a similar approach was proposed under the provisions of H.R. 5, 86th Congress, which was introduced by Representative Boggs, of Louisiana. This measure was approved by the House of Representatives, but it did not receive favorable consideration in this body. As we reflect on that proposal, it appears that many of the enforcement problems which confront the Internal Revenue Service in auditing tax returns prepared in foreign countries would be eliminated if base companies were incorporated in the United States and their books and papers were available for the scrutiny of the Commissioner of the Internal Revenue.

The distinguished junior Senator from Tennessee, during the course of his remarks on March 1 referred to the testimony given to the Ways and Means Committee by Mr. H. J. Heinz II on behalf of 19 companies. He submitted a memorandum for the record which had been prepared by Prof. Emile Benoit, of Columbia University. The distinguished junior Senator from Tennessee stated:

"Mr. Benoit expressed the thought, in a prepared memorandum, that it was a good thing for U.S.-owned corporations to avoid the taxes of foreign countries because this would mean, ultimately, more in U.S. taxes if this money ever came back to the United States through Switzerland or some other tax haven. Mr. Benoit could not see why there should be any objection in this country if our people overseas were successful in beating the taxes of foreign countries. He stated, 'It is mystifying that the Secretary of the Treasury should object to this.' In other words, it is not understandable to this economist that the United States, together with other trading nations, should want to police international brigands so long as these free-booters ultimately bring home to the United States a part of the loot. It is all right to be ugly so long as one is American." [9]

It indeed seems strange that American firms whose operations conform to the laws established in foreign countries should be described as international brigands and free-booters. The profits which they remit to the United States should be characterized ized as "loot." On the contrary, these profits were earned through expanding and developing markets throughout the world. They have been earned in competition with firms incorporated in every developed country, and it is most unfortunate to suggest that American enterprises who have committed stockholders' funds to enlarging our markets, improving our balance of payments and providing jobs for Americans should be characterized in that manner. These terms are not likely to improve the people-to-people relationships which dedicated Americans serving abroad as private citizens as well as the career diplomats in our State Department have sought to develop over a period of many years.

If most of the developed countries of the world extend special preferences under their own laws for foreign investment and, furthermore, encourage their citizens to establish base companies in Switzerland, it is futile for the United States to oppose such practices. There are two fundamental problems of concern to the Senate and only two. They are: our balance of payments position and the provision of more jobs for Americans. Certainly, it is not our function on a unilateral basis to attempt to alter the commercial and tax practices of all the civilized countries of the world.

Throughout the extended presentation of the administration's program for tax reform, there is a consistent reference to terms such as tax deferral which is always presented as a special privilege. It is idle for the Senate to debate the equalization of taxes between domestic and foreign investments of American firms if their competitors are accorded tax deferral without any question by their respective governments. We have an obligation to our citizens to insure that no unnecessary impediments are imposed upon them which make their efforts less competitive when they venture overseas.

Secretary Dillon in his testimony before the House Ways and Means Committee presented a theoretical example which showed that if his recommendations were adopted, remittances from oversea subsidiaries will be larger for 17 years if income is fully taxed when earned, rather than if the U.S. tax is deferred.[10] However, it is interesting to see what happens in the theoretical example after 17 years. If the entire income is subject to U.S. tax when earned, there is obviously a smaller amount of after-tax profit available for reinvestment. If, on the other hand, U.S. tax is deferred, more capital is reinvested, so that total investment—and, hence, remitted income—increases much more rapidly. While the Secretary recognized that remitted income would rise over a long span of years, the fact is that at the end of only 30 years total remittances amount to 39.3 percent more if there is deferral than without it.[11] In fact, we do not have to wait 30 years to see the full effect of the Treasury's proposals.

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[7] Ibid., pp. 3276–3277.

[8] Ibid., p. 3325.

[9] CONGRESSIONAL RECORD, Mar. 1, 1962, op. cit., p. 3245.

[10] President's 1961 tax recommendations, op. cit., p. 3322.

[11] Ibid., p. 3323.

Mr. Ernest W. Redeke, the comptroller of the First National City Bank of New York, testified that the taxation of undistributed profits of foreign corporations as recommended by the administration would result in a minor acceleration of remittances during the next few years but that this would probably result in a 40-percent loss in ultimate revenues over a period of only 30 more years.[12]

There are certainly compelling reasons to close loopholes, which diminish the receipts of the Federal Government, but I seriously doubt that the Senate of the United States should concern itself with increasing the tax revenues of other developed nations. At a time when the administration proposes to penalize all tax-haven or base-company operations, we find that the major developed countries of the free world take a completely opposite position.

I call attention to the following tabulation submitted by Mr. H. S. Geneen, president of the International Telephone & Telegraph Corp., before the House Committee on Ways and Means. It shows that virtually all of the developed nations not only allow so-called tax deferral on foreign investments by their nationals, but that they also recognize and encourage the use of tax havens.

Countries [1]	Do these countries permit use of tax havens? [1]	Do these countries tax unrepatriated earnings of foreign subsidiaries from other countries? [1]
Austria	Yes	No.
Belgium	Yes	No.
Denmark	Yes	No.
England	Yes	No.
Finland	Yes	No.
France	Yes	No.
Germany	Yes	No.
Italy	Yes	No.
Netherlands	Yes	No.
Norway	Yes	No.
Portugal	Yes	No.
Sweden	Yes	No.
Spain	Yes	No.
Switzerland	Yes	No.
Argentina	Yes	No.
Bolivia	Yes	No.
Brazil	Yes	No.
Chile	Yes	No.
Mexico	Yes	No.
Peru	Yes	No.
Puerto Rico	Yes	No.
Venezuela	Yes	No.
Australia	Yes	No.
Canada	Yes	No.

[1] President's tax recommendations, op. cit., p. 2905.

It is significant that all of the nations within the European Economic Community fall into this category. In view of these established facts, the enactment of the administration's proposals can only result in a decline in America's oversea activities to the ultimate detriment of the employment opportunities of our workers.

Mr. Eldridge Haynes, the president of Business International of New York, a respected research organization, in the course of his testimony reviewed a number of the tax incentives which other developed countries have provided in order not only to encourage foreign investment but more importantly to establish market positions for their industries.

The Senate, in considering the administration's proposals with respect to so-called tax havens, must apply a number of criteria as to their effectiveness which must be judged solely in terms of the public interest. I shall now state them:

1. Are tax haven companies helping or hurting our balance of payments?

2. Are they increasing or decreasing the number of jobs in the United States?

[12] Ibid., p. 3330.

3. Are they helping the United States effectively to meet the Soviet economic offensive?

4. Will the U.S. Treasury receive more or less revenue than if they did not exist?

It is self-evident that, if these four questions can be answered favorably, the Congress would be ill advised to put them out of business as the Treasury proposes.[13]

Switzerland, a nation to whom we entrust our most delicate diplomatic problems, has frequently been mentioned as a country which permits tax haven abuses. When normal diplomatic relations are severed with other nations, as occurred during World War II and most recently with Cuba, we always look to Switzerland as an honorable nation to whom we can entrust the best interests of the American people. Nevertheless, the testimony by the Secretary of the Treasury in discussing the administration's tax proposals before the House Ways and Means Committee, as well as the remarks by the junior Senator from Tennessee, suggest that the tax laws of the Swiss Government permit the operation of "international brigands and freebooters" who are engaged in practices inimical to the revenue interests of the United States as well as to that of its European friends.

During the course of his remarks reviewing tax haven abuses on March 1, the distinguished junior Senator from Tennessee referred to the fact that in 1960 and 1961 official reports were received announcing the formation of 76 new subsidiaries in Switzerland. He subsequently said:

"Last year it was determined that between September 1, 1959, and December 31, 1960, at least 217 new U.S. subsidiaries were organized in Switzerland. A look at the cantons in which these new subsidiaries are located might give us an insight into the possibility of some of them having been organized purely as tax-avoidance devices.

"These 217 new subsidiaries are concentrated largely in 3 of Switzerland's 22 cantons. Geneva got 63, Zurich 36, and Zug 56. All of these three cantons have favorable cantonal taxes and are good tax haven locations." [14]

There are many reasons why an American firm embarking on a program to expand its market penetration throughout the world would logically concentrate its international operations in Switzerland. To be sure, this country's favorable tax treatment of earnings derived outside of its borders is a factor. The Swiss Government is well aware that at some future date these earnings will be remitted to the parent company whether it be an American firm or one incorporated in some other nation. However, the presence of a so-called tax haven does not constitute the principal reason for the rapid increase in the number of base companies established in Switzerland. There are at least 10 compelling reasons and perhaps many more which account for the attractiveness of Switzerland as a location for a base company by American industry. They include:

1. It is geographically located in the center of our market area.

2. The country has a long history of political stability.

3. Excellent transportation facilities exist.

4. There is a great availability of multilingual personnel.

5. The Swiss franc is one of the world's strong currencies.

6. Taxes on foreign (non-Swiss) income are low.

7. The Swiss currency is freely convertible.

8. Switzerland has tax treaties with most of the important industrial nations of the world.

[13] Ibid., p. 2905.

[14] CONGRESSIONAL RECORD, Mar. 1, 1962, op. cit., p. 3247.

9. Excellent banking facilities are available.

10. The integrity of the Swiss people is among the highest in the world.

The administration in its disparagement of tax havens has been especially critical of operations conducted under Swiss jurisdiction. President Kennedy in his message to the Congress of April 20, 1961, on the subject of our Federal tax system said:

"The undesirability of continuing deferral is underscored where deferral has served as a shelter for tax escape through the unjustifiable use of tax havens such as Switzerland." [15]

The Secretary of the Treasury, Mr. Dillon, in his appearance before the House Ways and Means Committee made a number of references to Switzerland which can readily be misconstrued. Again, I shall quote directly from the hearings:

"Thus, an American company operating in West Germany through a German subsidiary will be subject to tax there at the West German income tax rate of 51 percent, and hence it cannot benefit significantly from U.S. tax deferral. However, to the extent that the profits of the German subsidiary can be diverted from the sweep of the German system, a lower tax on profits can be attained. And this is precisely what is achieved through a proliferation of corporate entities in tax haven countries, like Switzerland.[16]

"The recent growth of U.S. subsidiaries in tax haven countries—and Switzerland and Panama are but two examples—suggests that their importance as a means of tax reduction and avoidance will rapidly increase if the deferral privilege is continued.

"An examination of the public records in Switzerland alone indicates that there are more than 500 firms there which can be identified as being owned by U.S. interests. About 170 of these were created in the year ending March 31, 1961.

"U.S. officials on the spot are of the opinion that in addition to these firms there are a substantial number of other U.S.-owned firms in Switzerland which cannot be readily identified as such on the basis of the presently available data. Increasingly, U.S. manufacturing subsidiaries operating elsewhere in Europe are being linked to subsidiaries in the tax haven countries." [17]

Most Americans who have traveled extensively in Switzerland are well aware of the character of the Swiss people, their industry and frugality. No responsible management would establish a base company in any country without carefully reviewing all of the favorable and unfavorable factors with regard to its economy and political stability.

Mr. Neil McElroy, chairman of the board of the Procter & Gamble Co. and formerly the Secretary of Defense, before the House Committee on Ways and Means reviewed some of the reasons which led to the selection of Switzerland as a center for his firm's international operations. I quote an excerpt from his testimony:

"Changing to another country, U.S. business operations based in Switzerland have received particular attention in the President's tax message. Switzerland is considered by some to be a tax haven. My view is that legitimate Swiss operations have materially helped both the United States and free-world economies.

"For example, let me cite the experience of our Swiss operation.

"We organized a business in Switzerland in 1953 in recognition of the need for a

[15] President's 1961 tax recommendations, hearings before the Committee on Ways and Means, House of Representatives, 87th Cong., 1st sess., vol. 1, p. 8.

[16] Ibid., p. 29.

[17] Ibid., p. 30.

strategically located major marketing operation abroad, essentially to develop the markets which exist in small countries.

"We planned to export from the United States and from England into other countries as long as export was feasible, and to manufacture locally when necessary. For our type of products, the evolving pattern of foreign trade has been, first, export, then local manufacture; this pattern develops quickly as importing nations are able to force establishment of manufacturing facilities, which they do by making local manufacture considerably more attractive than import operations. In fact, it is often true that the only way to compete in these countries is through the advantages accruing from manufacturing there.

"We selected Switzerland as the headquarters for this portion of our oversea operation, which serves the small-market areas, because of many good business reasons, including of course a favorable tax climate with respect to foreign taxes.

"Here are some of the other advantages of Switzerland. Switzerland is centrally located for small-market type of business. Banking facilities and knowledge of international banking probably are unsurpassed anywhere in the world. There is a market in Switzerland for practically all currencies. The Swiss franc is an exceptionally stable, hard currency. Work and residence permits were easily available for non-Swiss employees. Transportation and communications facilities are excellent. Clerical help is good and multilingual. The Swiss Government is extremely business-minded and is interested in keeping Switzerland an attractive, workable, and profitable location for business.

"All of these combine to help us substantially in our ability to meet competition from foreign companies on even terms. Our Swiss organization employs more than 180 people of 21 different nationalities. Incidentally, they speak a total of 15 different languages.

"With minor exceptions, our Swiss organization is responsible for marketing our products only in smaller countries. It now markets in more than 140 different political entities. Where possible, the Swiss organization markets products produced in our plants in the United States. Since beginning operations in 1953, it has taken 46 percent of its volume from our U.S. plants with a value of $37.5 million. The remaining 54 percent of the products marketed by Switzerland have come from our other plants over the world." [18]

Mr. McElroy amplified the views contained in his prepared statement with respect to the benefits the American economy enjoys as a result of the locations of their base corporation in Switzerland. In response to questions from Representative CURTIS of Missouri, Mr. McElroy said:

"In the major countries where we have really quite a sizable market, say, England, France, Belgium, Italy, Germany, and so on, we have a local subsidiary and a complete organization which operates, except on a much smaller basis, as we do in this country, so it is a separate Procter & Gamble operating in that country. This is different, however, from the small-country operations like that I described in the case of Switzerland, where we have a great variety of different ways in which business is done in many small countries.

"You have to do that because of the rather unusual laws that you find in each one of these countries of a less developed nature.

"It has been our belief that Switzerland, which clearly has a low-tax environment as to non-Swiss income for a company that comes in there—there is no use saying otherwise—is serving our own national interest if the use of that low-tax environment can accomplish what our company has happened to do with it. That is, to generate capital which could then be used to go into high-risk countries such as these less developed countries many of which I have named, like those in the Near East and southeast Asia, some in Latin America, and so on.

"In my opinion, this is in the national interest, but again, we are willing to put our books open to anyone that you want to have this information, an economist or any objective person you please, for the United States to make adjustment about this. This is either right for the country or it is wrong. We think it is right." [19]

Furthermore, Mr. McElroy's testimony is of particular interest because the Procter & Gamble Co.'s primary competitor in world markets is the Unilever Corp., which enjoys all of the competitive advantages which the administration's tax proposals would deny American firms.

I quote a further statement by Mr. McElroy in response to questioning by members of the House Committee on Ways and Means:

"Moreover, the English company, and in our case there is the one with which we are competing directly as our major competitor in the world, has, through the authorization of an oversea trading corporation, is given by England itself the same sort of advantage from a tax standpoint that we are achieving through operating through a Swiss subsidiary, and so it is not at all necessary for our major competitor to have a Swiss subsidiary in order to be competitive. But if we are to be competitive with it, operating under its own laws with an oversea trading corporation, authorized by English law, we practically have to operate in the kind of a low-tax environment provided by Switzerland as to non-Swiss income for the business that we do in the small countries around the world." [20]

Another firm which has centered its international activities in Switzerland related the considerations which prompted it to do so.

Mr. Ray R. Eppert, the president of the Burroughs Corp., testified:

"I would like to say also that we have a Swiss management company. I do not know why but I sort of got the impression that today maybe some persons look with question at Switzerland. 'If you are operating there what is the ulterior reason for operating there?' I can assure you we have no ulterior reason. We have a very complete management operation responsible for Western Europe, Africa, the Middle East, and India, and it is a very going concern, believe me, and our international activities have profited greatly as a result of that central focal point management at that point. We have found Switzerland to be an ideal spot from the standpoint of American nationals overseas an also, from the standpoint of carrying our management activities vis-a-vis subsidiaries in other countries. Considering also airlines and transport facilities, it is a very natural operating point." [21]

Mr. Eldridge Haynes, president of Business International of New York, of whom I have already referred, also believed that it was necessary to correct the erroneous impression that sinister forces influenced American management to organize base companies in Switzerland.

I submit excerpts from Mr. Haynes' testimony:

"But first of all, we should be certain that we understand what is a tax-haven country and what is a tax-haven company. Nowhere in his statement did the Secretary of the Treasury give a definition of a tax-haven country. The nearest he came to it is this casual expression, 'In tax-haven countries, like Switzerland' presumably because Switzerland imposes a very small tax on income arising from outside its borders. Taxes on business conducted within the borders of Switzerland range from 21 percent in the canton of Zug to 32 percent in the canton of Zurich, plus a tax on dividends consisting of a 3-percent Federal coupon tax and a 27-percent Federal anticipatory tax. The latter two taxes are reduced in the case of dividends paid to U.S. shareholders by the double tax treaty that we have with Switzerland.

"So it is not because of internal taxes that Switzerland is a tax haven. It is a tax haven only and solely because under certain conditions the Swiss Federal Government and the cantons levy such a small tax on income arising outside of Switzerland. Panama, the only other tax haven mentioned by the Secretary of the Treasury, under certain conditions imposes no tax at all on income arising outside its borders.

"We may, therefore, define a tax-haven country as any country which reduces or eliminates tax on income earned outside its own borders.

"The Swiss system of taxing foreign income is not a special privilege given only to foreigners. The system was created for the benefit of the Swiss economy. Switzerland depends heavily upon foreign trade for its existence. The Swiss must import much of their food and almost all of their raw materials. Imports into Switzerland average $369 per year for every man, woman, and child in the country, compared to $86 for the United States. This means that the Swiss, on a per capita basis, must work 4½ times as hard as we do, earn 4½ times as much abroad per capita as we have to earn, just to cover their import bill. And they have practically no natural resources apart from waterpower and hard-working, industrious people of great integrity.

"The system of imposing very little tax on foreign income has encouraged Swiss businessmen to export abroad and to invest abroad to earn foreign exchange. The system has been eminently successful. The Swiss have achieved the highest standard of living in Europe." [22]

The distinguished junior Senator from Tennessee during the course of his remarks on March 1 questioned the location of U.S. base companies in the canton of Zug. Again, I shall quote directly from his statement:

"There could conceivably be legitimate reasons for some of these corporations setting up shop in Geneva and Zurich. But why would 56 U.S. corporations be organized in Zug in so short a time? This is a remote canton, having absolutely nothing to commend it to American capital, so far as I can see, except that the taxes imposed by the canton can be negotiated down to about zero. I question whether any American subsidiary has been organized in Zug for legitimate reasons." [23]

I have stressed that our most important consideration is to maintain a competitive position for American industry, its workers, and investors in terms of the practices and policies permitted other international firms who operate all over the world. I was very much impressed by the testimony of Mr. Louis Putze, president of Controls Co. of America, before the House Ways and Means Committee. Mr. Putze stated:

"For instance, in Europe, Control Co.'s largest competitor for home laundry controls (Controls Co. is the leading manufacturer of home laundry controls in the United States) is a German concern, W. Holzer & Co., K. G. Meersburg/Bodensee, West Germany. This company manufactures products of its own design and sells to home

[18] President's 1961 tax recommendations, vol. 4, op. cit., p. 2925.

[19] Ibid., pp. 2936–2937.

[20] Ibid., p. 2937.

[21] Ibid., p. 2836.

[22] Ibid., pp. 2905–2906.

[23] CONGRESSIONAL RECORD, Mar. 1, 1962, op. cit., 3247.

laundry and appliance manufacturers in all of the major countries in Europe.

"The Holzer Co., whose annual sales are $6 million, has recently established two base companies in Zug, Switzerland, which, incidentally, is the same canton in which Controls Co.'s foreign operations are headquartered. One is a holding company which holds shares in affiliated companies and handles licensing; the other is a trading company.

"We have a high regard for the Holzer Co.'s products, design, and sales ability. We think we can compete internationally with them as we would compete with a competitor here in the United States. However, it is inconceivable that our Congress would enact tax legislation that would give our German competitior a right to a tax haven in Switzerland by which it can accumulate capital for foreign reinvestment while we, as an American-owned company, would not be permitted the same tax advantage." [24]

So long as a well-established German firm manufacturing high-quality products enjoys the benefits of a base company incorporated in Zug, its American competitors should be accorded this same advantage. It is idle for the Congress to consider the factors which prompted a German firm such as W. Holzer & Co. to establish a base company in Zug. If we want American enterprise to enjoy equal competitive opportunities then it should be permitted to operate in the same manner as its competitors. The junior Senator from Tennessee has shown concern with respect to the organization of transportation subsidiaries by American firms. During the course of his remarks on March 1, he said:

"Here is an example. An importer of raw materials formerly used unrelated shippers to bring its raw materials to the United States. A few years ago this corporation organized its own transportation subsidiary in Panama. Although there is apparently no rigging of costs in this case, the Panamanian subsidiary pays practically no taxes and profits are not repatriated. It has been estimated that the United States has lost about $17 million in revenues during the past few years from this tax-haven operation." [25]

The full implication of this statement is of great importance to all Americans. Obviously, foreign producers utilizing these same raw materials are free to use a Panamanian corporation. By penalizing American firms, their competitive position, not only in world markets but here at home, is adversely affected. If the Congress should interfere with such transportation operations, it would destroy many American jobs. A further observation is in order. The statement by the junior Senator from Tennessee suggests that approximately $17 million in revenues for the U.S. Treasury had been sacrificed during recent years as the result of this transportation tax haven subsidiary. Once again, every Senator must remember that the sole object of operating abroad is to ultimately secure funds for the benefit of American stockholders. Any time there is a remittance from the Panamanian corporation to its domestic parent, and this is the only means whereby the U.S. stockholders of the parent may secure any return on their investment, the U.S. Treasury will collect a 52 percent tax inasmuch as the Panamanian tax is virtually zero.

The junior Senator from Tennessee makes a passing reference to Monaco, stating:

"Since business has fallen off at Monte Carlo, the almost sovereign principality of Monaco is making its bid." [26]

During the course of my review of the hearings before the House Committee on Ways and Means, I noted that Mr. J. D. A. Morrow, the chairman of the finance committee of the Joy Manufacturing Co., referred to a Panamanian "tax haven," Joy International S.A., which in turn conducted most of its operations in Monaco. During the course of his testimony he made several observations with respect to the operation in Monaco. He said:

"We are in Monaco because there are no material corporate income taxes there; also because that happens to be the crossroads of travel of our European companies and of our international representatives to various parts of the world. That airport at Nice, France, which is one of the great airports of the world, can take you nearly anywhere you want to go. It is only 12 miles from Monaco.

"The president of the company lives there. They have offices there. There is an office staff. The sales vice president of Joy International has his headquarters in Monaco at Monte Carlo. He is away from there 80 percent of his time because he travels all over the world to the different regions where that company is operating, sees our regional managers, calls on prospective customers of theirs, of the directors that are associated with them, that work with them." [27]

Subsequent to Mr. Morrow's appearance before the committee, he furnished additional information to the chairman, Representative MILLS of Arkansas, in a letter dated June 10, 1961. He said:

"As I explained to the committee, Joy International is not a tax dodge. It is a splendidly organized, hard working and most effective head of all Joy's foreign business. Some committee member asked me how many employees we had at Monte Carlo. I answered, '40'. Mr. Wheeler tells me that a number of employees formerly stationed there have now been moved out to permanent locations elsewhere. At present, therefore, there are 27 employees located in Monte Carlo and there are 27 others located in different parts of the world, including 3 regional managers. These 27 are made up of 7 in Asia, 7 in Europe, 2 in Africa, 8 in Latin America, and 3 at large.

"The following nationalities are represented by Joy International employees: American, Australian, English, French, Philippine, Belgian, Dutch, Italian, Indian (Asian), Swedish.

"Most of these employees are field engineers, largely mining engineers, but with some electrical and mechanical engineers. Another group comprises Joy International's installation engineers, who see that every Joy machine is properly uncrated, put together, adjusted and tuned up to work as it should. This is very important.

"In addition to sales promotion and installation work, employees of Joy International arrange visits of prospective customers to properties elsewhere around the world, where they can see the machines under consideration working in conditions similar to those the prospect has. These are visits not only to the United States, but to mining fields in all other parts of the free world. Consequently, Joy International has become familiar with the strata, mineral formations, mining methods, and problems of machine adaptation and installation in all the major mining areas of the world." [28]

It is easy to criticize the efforts of others, but those Americans who are willing to leave their homes and move their families to a strange land in order to develop new outposts for American industry are performing a service that benefits all of us.

An article which appeared in the March 10, 1962, issue of Chemical Week, entitled "Getting in Shape To Take on the World," presents some of the problems American firms encounter in developing oversea markets. Many of our leading corporations have established base companies in Switzerland, as it presents so many latent and obvious advantages in trading with other countries. A statement in this article attributed to Mr. David Conklin, the assistant general manager of DuPont's International Department, is worthy of note:

"It's much more difficult to make a buck overseas—you have communications problems, personnel problems, hundreds of different laws and currency situations to keep in mind. You have to give someone the responsibility." [29]

The someone to whom Mr. Conklin referred is normally the president of the base company which some attempt to disparage with the term "tax haven."

Nevertheless, of one fact we can be sure, any action taken by the U.S. Congress will not deter foreign firms from utilizing companies located in Switzerland, Panama, Monaco, or in other countries. Our concern should center on the elimination of any abuses that may exist which facilitate tax evasion by virtue of the use of base companies which are more popularly known as tax havens.

As I have indicated on many occasions, I have no interest in defending those firms who concentrate their efforts in developing legal means of tax avoidances rather than devoting their energies to the development of new products and securing additional sales that will provide jobs for American workers. There is ample evidence that those who wish to find so-called loopholes in our tax code for a time will be successful in doing so. However, as these procedures become apparent, I have enough faith in the Congress that adequate legislation to close such loopholes may be enacted without hampering legitimate business activities.

The distinguished junior Senator from Tennessee cites a number of practices which should be carefully reviewed by the Finance Committee. They include interest-free loans from tax haven companies to the U.S. parents, as well as many reinsurance plans which he believes have been established within recent years and are operated through so-called tax haven companies. He cited a dummy company that was chartered in the Netherlands Antilles.

Every conceivable abuse should be ferreted out and curbed, but let us not loose sight of the important benefits our economy derives from the operation of base companies. They further our foreign policy objectives and contribute to our Federal revenues.

Prof. Robert Anthoine, of the Columbia University Law School, during the course of his testimony stated that our tax laws should require a neutrality of treatment for all investments whether they be made in the United States or abroad. Excepting the criteria of neutrality, he raised some questions which the Senate must resolve in its consideration of H.R. 10650.

I submit an excerpt from Professor Anthoine's testimony:

"Neutrally requires that the tax treatment of foreign investment should be neutral in its effects on capital flows. Applying these criteria, the Treasury concludes that a dollar earned by a Swiss corporation in Geneva or in Africa should bear the same U.S. tax burden as a dollar earned by a New York corporation in New York, even if that requires taxing the U.S. shareholder of the Swiss company on his share of the

[24] President's 1961 tax recommendations, vol. 4, op. cit., p. 3172.

[25] CONGRESSIONAL RECORD, March 1, 1962, p. 3246.

[26] CONGRESSIONAL RECORD, March 1, 1962, p. 3246.

[27] President's 1961 tax recommendations, vol. 4, op. cit., pp. 3256–3257.

[28] Ibid., p. 3261.

[29] "Getting in Shape To Take on the World," Chemical Week, March 10, 1962, p. 28.

undistributed income. But taking into account the fact that the Swiss corporate income is still in foreign corporate solution; that a heavy burden of indirect taxation not eligible for the foreign tax credit may have been sustained; that in some areas in which the Swiss corporation operated, the hazards may be far greater than in New York; that the U.S. shareholder has not received his share of the corporate income and perhaps cannot compel the distribution; is it not possible that the proposal is inequitable and unneutral in discriminating against foreign investment? The question of equity is also involved in changing the ground rules after substantial investment has already been located abroad in reliance upon the stability of the tax system." [30]

There is an understandable reluctance on the part of the directors of many American corporations to authorize the establishment of an operation in an underdeveloped country where the economic and social climate may not be too stable. After all, these individuals are committing funds belonging to stockholders, and they have a high sense of responsibility and trusteeship. Perhaps subconsciously, they would be more liberal in their approach to an investment that was financed with funds that had been earned overseas and could be transferred from a base company to this new operation.

Mr. Stock expressed this view during the course of his testimony, and I shall quote directly from his statement:

"If, as, and when dividends are paid from that Swiss company back to the domestic parent company, there is going to be an overall tax of 52 percent. Therefore, the Swiss earnings as far as the domestic parent company is concerned is only worth 48 cents on the dollar. There is a deferred tax liability of 52 percent against that money.

"Now, if I were a businessman, I would be more inclined to put a 48-cent dollar to risk in a less developed country than I would to take a dollar after tax which is a solid dollar and put that to risk because, if I go into a less-developed country and if I lose my money, then there will be no U.S. tax because obviously there cannot be any dividends. So I have as a partner anytime, as I go into a less-developed country using Swiss earnings, the U.S. Treasury. To that extent I have minimized my risk but the U.S. Treasury stands to share my profits and likewise share my losses." [31]

Let me emphasize that any earnings resulting from investment abroad, whether it be through a tax haven, a foreign subsidiary, or a branch, will ultimately be taxed at the same rate as if they had been earned here in the United States. There is no foundation for this statement which has been made on many occasions that funds invested through so-called tax havens escape taxes unless we adopt the premise that American publicly owned firms are placing their stockholders' moneys overseas without any economic justification nor any prospect that they will furnish a base for future dividends to domestic stockholders. It is inconceivable that any responsible management would adopt such a course.

My evaluation of the testimony before the House Ways and Means Committee shows that base companies are not only accepted by all other developed nations but that their operations are encouraged. They contribute to a favorable balance-of-payments position for the United States. Their activities also generate exports which in turn provides additional job opportunities here in the United States. However, if there are any genuine loopholes, let us close them. It would be a tragedy for the Congress to enact legislation which would in effect kill the goose that lays the golden eggs in order to deal with a small minority of unscrupulous individuals.

This statement is the sixth in a series directed to the seven questions which I raised in my introductory statement on the broad subject relating to the taxation of foreign source income. I intend to complete, at a later date, my portrayal of the facts, as I see them, for the benefit of my colleagues.

[30] President's 1961 Tax Recommendations, vol. 4, op. cit., p. 3375.

[31] Ibid., pp. 3277–3278.

SOCIAL SECURITY FINANCING

Mr. CURTIS. Mr. President, I ask unanimous consent to have printed in the RECORD, in connection with my remarks, an article published in the Freeman in June 1960 by the Honorable J. Edward Day, our able and distinguished Postmaster General.

In this article he gives a very clear insight into social security financing. Although the hospital and medical bill discussed at that time is not the proposal that is before us, his excellent basic statement merits our attention.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WE CAN'T AFFORD IT

(By J. Edward Day)

As the new decade dawned, we saw many predictions of the bold new things needed for the surging population of the sixties. There was mention, of course, of new plants and facilities to provide new jobs, of more homes, and of more new products to go with those homes. But where in another era this awakening to rapid growth ahead might have meant expanded farm output, new rail lines, more steel capacity, and the like—financed in the past by private capital—the top needs now emphasized are highways, schools, airports, rapid transit, water resources, public housing for the elderly, more hospital beds, more capacity in colleges and universities, space research, closing the missile gap, aid to underdeveloped countries—all of which must be financed in whole or to a predominant degree by public funds.

We are used to hearing it said that even though a certain program might be desirable for adoption by a city, county, or State government, the particular government unit simply can't afford it. Each of us is familiar with situations where local governments have made do with older public buildings, or with something less than perfection in quality of services, pay levels for public employees, and modernization of streets, sewers, and schools.

There have always been those, of course, who insisted the Federal Government could not afford this or that new or expanded program. But the fact that the Federal Government can go hugely into debt without voter approval of bond issues (States and cities usually can't), has made the ceiling on Federal spending highly flexible. So on Federal spending, those who could make a good case for desirability could almost always prevail over those who asked, "Where's the money coming from?" For the Federal money was always forthcoming—even if it meant, as in fiscal 1958–59, a $12 billion deficit in a peacetime year.

Suddenly, at a time when pressure for public spending at all Government levels was never greater, the day of reckoning has arrived. Eighty billion dollars of the Federal debt must be refinanced in 1960 at a time when 5 percent Federal bonds have appeared on the scene for all to see. All at once we hear about gold drain and deficit in international payment balances and even flight from the dollar. Getting Federal spending and debt under control is no longer a matter of argument—it is a crystal clear necessity.

Near term Federal tax reduction seems less and less a sensible possibility. State and local taxes seem bound to continue their upward climb. The theory that the Federal Government was going to confine itself to certain kinds of taxation and the State and local governments were going to confine themselves to others, has proved to be just that: a theory. State income taxes (with ever higher rates), school district income taxes, and city payroll taxes are competing for the same net earnings dollar as the Federal income tax. And by 1969 the social security tax, even to support the program as it now stands, will be 9 percent of taxable payroll—with half to come from the employee (and not deductible from the employee's Federal income tax).

We have to face up to our total needs for future spending at all levels of government, assign priorities among programs and projects, do some major retrenching in existing public programs to preserve solvency, and then decide whether we can afford to open the door to a vastly expensive, expansive federally financed health care program.

The Forand bill would amend the Social Security Act to provide broad hospital, nursing home, and surgical benefits for all persons—already 13.7 million—receiving payments from the social security program. This group includes not just those men over 65 and women over 62 who are entitled to benefits, but also widows with children under 18, and totally disabled persons entitled to benefits and their beneficiaries.[1]

To provide the benefits proposed to the limited group described would cost over $2 billion the first year and between $6 billion and $8 billion by 1980. It would mean that social security costs would increase by 26 percent on a long-term basis. Where social security will cost nearly 9 percent of payroll by 1969, just as it now stands, the Forand bill would bring the overall cost to 11 percent of taxable payroll.

What is more, (1) the Forand bill, if enacted, is bound to be only a first step to an enormously expanded and still more expensive Federal health care program, (2) invariably these publicly financed health care plans (such as in England and Canada) have cost far more than was estimated when they were proposed, (3) other expensive liberalizations of the social security program are in the offing, (4) the social security program as it now stands may be so badly underfinanced that major tax increases may be needed just to pay for benefits already promised.

NO FURTHER LEEWAY

Let us face up to another new fact of life that has overtaken us fairly recently. Where in the past our Federal Government had a large amount of leeway, through deficit spending and increased debt, to conduct a crash spending program in case of war or depression, the leeway is now gone. In view of our situation on Federal borrowing difficulties, it is clear we are gambling there will be no international blowup and no economic blowup.

If we did have either, the money would have to come from practically confiscatory tax increases superimposed upon the wartime tax levels we have continued into peacetime.

Present-day taxpayers will find it ironic to be told that Government financial leeway exists only in still higher Federal taxes. But that is the sad fact. And even that weak reed, that inadequate leeway, is being weakened still further by rising social security tax rates. Social security taxes must

[1] Editor's Note: What may have happened with regard to the Forand bill by the time this article appears in print is anyone's guess. But there need be no doubt about the economic consequences of any such political measure.

come out of the same pie (i.e., tax base) as taxes for missiles, Federal debt service, highways, schools, city police, county jails, or whatever.

For obviously 100 percent of the public's earnings is the whole tax source pie: the complete, final, nonexpandable tax base, no matter what the tax or the tax purpose or the taxing entity is called. It doesn't help to say that social security taxes are special purpose or not in the Federal budget. Except for a capital levy (an unthinkable device) all taxes, no matter what they are called or where they are budgeted, have to come out of earnings of the public.

Many have a mistaken belief that social security is a savings plan, with the payroll taxes saved up to provide for the employees' future benefits. The fact is that social security is a pay-as-you-go plan—or, more accurately, an underpay-as-you-go plan.

We have graciously provided that employees of 1969 shall pay a 4½-percent rate for the benefits for which employees of 1959 paid 2½ percent (3 percent beginning with 1960).

The social security trust fund is in fact only a contingency reserve. Some estimates, based on the existing program, say the trust fund will be used up entirely by the year 2000. But, big as the trust fund seems, it would have to be three times as big as it now is just to pay future benefits to the 13.7 million people already on the benefit rolls. And other tens of millions are qualified to become new recipients in the future.

Already we are postponing the evil day on paying for the present social security benefit structure. When it comes to the multibillion dollar addition to the structure proposed by the Forand bill—we can't afford it.

RUSK, McNAMARA WIN PRAISE FOR NATO PERFORMANCE

Mr. PROXMIRE. Mr. President, many of us have been disappointed by the failure of the North Atlantic Treaty Organization—NATO—to do the important job we had hoped it would do, and which we still hope it can do; namely, to provide in Western Europe an effective shield for freedom against tyranny. We are particularly disappointed by the failure of NATO to develop the kind of military potential, especially with conventional forces, that we know it must have.

For this reason, Mr. President, it was very encouraging to read this morning in the New York Times a report on the splendid job which our Secretary of State, Dean Rusk, and our Secretary of Defense, Robert S. McNamara, have done at the NATO conference in Athens. The report is so encouraging, so fresh, and so remarkably different from what we hear about Secretaries of State and Secretaries of Defense who have served over the years—in other words, about the various persons who have occupied those positions in the past—that I should like to read at this point a small part of the article:

As they sought planes to take them back to their capitals or to places to spend a few days in the sun, diplomats said, some grudgingly, some enthusiastically, that they had witnessed a striking demonstration both of the U.S. reasons for leading the West and of its ability to do so.

"For the first time in 10 years," a Scandinavian diplomat said, "I know where America wants to go and I am content to follow."

REMARKABLE DEMONSTRATION

"It really was a most remarkable intellectual demonstration," a Canadian said.

"The whole world knows the United States is strong. It's encouraging to find that the brainpower has been mobilized, too."

The protagonists in the demonstration of American leadership were Secretary of State Dean Rusk and Defense Secretary Robert S. McNamara.

What they did at the meeting of the Council of Ministers of the North Atlantic Treaty Organization was simple. By combining sometimes brutally frank exposition and a reasoned political argument, they reestablished the basis for American political and military leadership of the alliance.

They did not bully, they did not heckle. They were frank to admit American doubts and difficulties. When they drew attention to their allies' shortcomings, they made it clear they understood the reasons. But they kept the urgency of the problems caused by the Soviet Union's ambitions before the ministers.

Mr. President, I ask unanimous consent that this brief article be printed in full at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, May 8, 1962]

NEW LOOK IN NATO—RUSK AND McNAMARA REINFORCE THE ALLIANCE BY DESCRIBING U.S. POWER

ATHENS, May 7.—Peace, Milton wrote, hath her victories no less renowned than war. The United States won one of these in the North Atlantic alliance in the last 5 days. As they sought planes to take them back to their capitals or to places to spend a few days in the sun, diplomats said, some grudgingly, some enthusiastically, that they had witnessed a striking demonstration both of the U. S. reasons for leading the West and of its ability to do so.

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The main result they sought, without ever saying so, was to place in proper perspectives the power positions of the United States and its allies.

Mr. McNamara gave NATO on Saturday what one colleague inelegantly called "a bellyful" about U.S. nuclear power.

When it was over none of Mr. McNamara's listeners, including the Germans and the French, could ever again regard any future NATO nuclear deterrent as more than a marginal and expensive addition to existing United States.

Mr. Rusk's task was in a way more difficult. He is dealing with the most intricate and explosive issue between the Soviet bloc and the West—the future of Berlin. He has the support of the British, the acquiescence of the West Germans and the tolerance of the French.

The Secretary of State, according to one diplomat, showed he was sensitive both to the interests of his allies and to the harsh facts of Soviet policy.

There is now greater confidence, even among the most skeptical members of NATO, in Mr. Rusk's ability to see if there is a basis for negotiations in the Berlin situation.

The alliance has been left with a new sense of values.

Britain's special relationship remains. It was clear that both Mr. McNamara and Mr. Rusk understand the sacrifices made by Britain for defense without condoning Britain's failure to make good a commitment to reinforce the British Army of the Rhine.

But the description of U.S. strength, nuclear and conventional, placed Britain's proudly proclaimed independent nuclear deterrent in perspective.

West Germany now has, as some of Bonn's diplomats conceded, less reason to clamor for nuclear arms or to doubt the U.S. ability to handle the talks with the Soviet Union on Berlin.

However, the demeanor of the German delegation indicated that the political situation in Bonn was changing fast and that the rate would accelerate as Chancellor Adenauer grows older.

France's image of herself as "le grand nation" of old was undiminished. What Mr. McNamara and Mr. Rusk did was to explain the difference between the image and the reality of American strength. The French could not be expected to like it. But they are logical enough to accept that this is the way things are.

ADLAI STEVENSON RESPONDS TO ATTACK ON U.N.

Mr. PROXMIRE. Mr. President, our distinguished Ambassador to the United Nations, Adlai Stevenson, has just written a thoughtful, perceptive comment on recent Western criticisms of the international body. Entitled "The Attack on the United Nations," it appears in the May 1962 issue of the Progressive.

Mr. Stevenson details the charges that have been uttered against the U.N.—that it is too preoccupied with colonialism, too responsive to an Afro-Asian majority; and that as a consequence it is neglecting its real function—which is to keep the peace and uphold collective security.

These are, of course, serious charges. Mr. Stevenson comments:

But are they true? They seem to me to be born, at best, of serious misconceptions about the world in which the powers and the United Nations alike have to live. At worst, they are the products of malice and r!que. And whatever the motive behind them, they do not stand up to closer examination.

In the body of the article Governor Stevenson details, point by point, the success story for American policy that has been chalked up in the past year in the United Nations.

I ask unanimous consent that the entire article be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE ATTACK ON THE UNITED NATIONS

(By Adlai E. Stevenson)

In all the criticism leveled at the United Nations by various Western critics in recent months, I think I can detect two recurrent themes. The first is that the United Nations has fallen into an unhealthy and obsessive concern with colonialism, that its Afro-Asian majority can see no further in international life than the liquidation of the last remnants of the old European empires. As a result of this obsession, they are said to miss other, more dangerous threats of Communist infiltration and subversion and end up in a posture which is dangerously one-sided—treating the Western democracies with biased hostility and letting the Communists get away with the benefit of every doubt.

The second line of criticism—which follows in some measure from the first—is that the United Nations is neglecting its real function—which is to keep the peace and uphold collective security. Lured from the United Nations' true path by their anticolonialist obsession, the new nations, so goes the argument, are destroying the United Nations' fundamental value as a mediator and conciliator. Disputes are being exacerbated and blown up by ill-considered meddling, meddling which always ends up in bias against the West.

These are serious charges. They have been uttered by responsible people on both sides of the Atlantic, and if they are true, then we have to admit that the value of the United Nations as an instrument of world peace is gravely compromised.

But are they true? They seem to me to be born, at best, of serious misconceptions about the world in which the powers and the United Nations alike have to live. At worst, they are the products of malice and pique. And whatever the motive behind them, they do not stand up to closer examination.

Let me take first the issue of colonialism. The United Nations, obviously, did not invent it. The issue is there, darkening men's minds with fears and suspicions, whether the United Nations takes any notice of it or not. You may say that it is unfair to the Western powers that the obsession with colonialism should still be so strong after 15 years of such wholesale decolonization—the millions of subject peoples freed from Western tutelage, the scores of new states brought into being, freely and largely peacefully, in the process.

But before we lump all the anticolonialists together, let us try to be more precise. Loudest of all are the Communists—and least entitled to respect. When Eastern Europe enjoys self-determination, we will listen to them, and not before.

As for the non-Communists, it is neither fair nor wise to lash out at a supposed Afro-Asian bloc, lumping all the new African and Asian states together as irrational critics of a supposed Western bloc. These geographical terms do not define solid blocs at all. They refer to a many-sided array of free nations, each with a wide area of freedom to pursue its own interests and express its own historical experience.

And that experience, of course varies widely. Among the Asian nations are some whose concern about European colonialism, however deep and active, is somewhat more patient and less fierce than it once was. In fact, the whole subcontinent of Asia—Pakistan, India, Nepal, Ceylon, and Burma—has been almost entirely free of Western control for about 15 years. And these 15 years of independence have moderated passions and turned many Asian eyes to other issues—especially economic development and security against the menace of atomic destruction.

The shift of interest is far from complete—nor will it be complete as long as colonies remain. There will be dangers for years ahead, both from those who try to stand unmoved against the winds of change and those who are willing in the name of progress to whip the winds of change up to hurricane force. These dangers were all too vividly illustrated in the recent action against Goa.

Certainly we cannot take Asia's moderation too much for granted. Asia was dominated for well over a century by Western overlords whose rule, whatever its virtues in many cases, might have been expected to leave deeper scars of resentment than has in fact proved to be the case. Westerners can easily forget their dominion in 15 short years. What is more remarkable and admirable is the fact that so many Asians appear to be ready to do so as well. If occasionally some anticolonialist resolution strikes a chord in their minds, we in the West should not be too surprised. They, after all, were at the receiving end of the colonial experiment. The remarkable fact is how quickly and with what realism and dignity the vast majority are prepared to let the past slip without regret or resentment into history.

But in Africa, we in the West must remind ourselves that colonial control is still a fresh memory or a direct, brutal fact. We do not blame a man for being obsessed with a toothache. We can rise above his discomfort. We don't feel it. But for him it is a dark, angry fact. So colonialism still is in many parts of Africa.

The passions unleashed in Africa minds—particularly young African minds—by bloodshed and exploitation, by discrimination and delay, by the violation of human rights—cannot but color African thinking about general international events. So would such conditions color our thinking if our own neighbors were the sufferers. We demonstrate a comparable feeling when we argue that peace cannot be secure so long as the Hungarian people are tyrannized and oppressed. Why should such a sentiment be acceptable and understandable, and a similar feeling among Africans for their brothers in Angola, say, be called irresponsible and obsessed?

We shall make no sense in our international relations if we seek to banish obstinate realities simply by reading the new nations lectures on their unadult behavior. For Africans to care profoundly about colonialism in Africa is not unadult. It is simply and directly human.

Given this background, it would perhaps not have been surprising if the new African states had allowed their votes to be swayed wholly by the colonial issue. Distinguished critics have accused them of such obsessive behavior, but I cannot see how the voting record bears out the accusation. Let us look at the facts. What do we find? Consistent hostility to the West? Consistent support—out of pique and anger—for Soviet resolutions? Utter inability to follow moderate paths on the colonial issue? Complete African—and even Asian—extremism compared with the moderation of Western views? One might expect it, judging by the attacks.

What in fact we find is something wholly different. Take the crucial issue which has confronted the United Nations for a year, and on which Mr. Khrushchev himself staked his personal prestige—an issue, incidentally, made more inflammable by the tragic death of Mr. Hammarskjold. I refer, of course, to Russia's determination to end all independent executive action by the United Nations and to substitute instead a secretariat hamstrung by the veto from top to bottom. This Communist ploy has been largely defeated, and we have a new and effective Secretary General appointed with no impairment of his powers.

I can testify to the fact that this favorable outcome was not secured by Western pressure and support alone. The West, unaided, could have produced nothing but deadlock. The rescue of an independent, responsible U.N. Secretariat was accomplished because an overwhelming majority of the United Nations, including virtually all the new Asian and African states, would not go along with an emasculated organization. If this is anti-Western irresponsibility, then we must revise the dictionary.

But even on the specific issue of colonialism, it is, I think, a gross perversion of the facts to accuse the new states of universal irresponsibility. When the resolution calling for a rapid end to colonialism was passed last November 27, it took the place of a much more violent Soviet resolution which the Soviet delegation had withdrawn because the Afro-Asian bloc would not support it. In the form in which it was passed, the United States and such members of the British Commonwealth as Canada and Australia voted for it, which surely suggests that it represented a moderate, unobsessed view of the issue.

When sanctions were proposed against South Africa, the resolution, largely under Asian influence, failed to pass. One cannot, therefore, dismiss as irresponsible extremism the resolution which did pass, condemning South Africa's racial policies and commanding the support of the entire Assembly, save for Portugal. In face, can anyone doubt that its tone represents what every modern member of world society accepts and supports?

The same moderation appeared on all the leading issues in this most recent resumed session of the General Assembly.

On Angola a moderate resolution, sponsored by 44 countries of Africa and Asia, was adopted by 99 votes to 2—and a more drastic resolution offered by the Soviet bloc on the same subject was overwhelmingly defeated.

On the ticklish problems of independence for Ruanda-Urundi, Soviet attempts to get all Belgian troops out by July 1, and thus to court another Congolese explosion, were soundly defeated.

On Cuba's charges against the United States, not one African or Asian country—in fact not one country outside the Soviet bloc itself—voted to sustain them or even to take official notice of them.

And when the Soviets went to the Security Council in January to demand a new round of shooting in Katanga, they did not even get the support of the two African states on the Council—Ghana and the United Arab Republic—which are among the most emphatic of the anticolonialists. There is general evidence here not of obsession but of a careful weighing of words and votes. As for the states singled out for strongest criticism—Portugal and the Union of South Africa—they have flouted the strongly held views not just of the Afro-Asian states, but of nearly the whole of the Community of Nations.

I do not, therefore, find that the criticism of obsessive and biased policies in the United Nations can be substantiated. I would go further and say that in concerning itself with the colonial issue, the United Nations is not being diverted from its proper function and purpose of safeguarding the peace and providing the machinery of conciliation. On the contrary, it was inevitable from the beginning that the issue of colonialism, both in the intention of the Charter and in the actual hazards of world politics, would for a time occupy the center of the stage of the United Nations.

When the charter was elaborated, it stated as a fundamental of international life the equal rights of nations great and small. This democratic principle is, of course, always under attack by those—now on one side, now on the other—who prefer the Orwellian gloss that some nations are more equal than others. But it stands among the charter's first principles. Again, the 51 founder members undertook to give due account to the political aspirations of their dependent peoples and to help them to secure free political institutions. In pressing them to carry through this commitment, the United Nations cannot be said to exceed its terms of reference. The blame should rather be with those nations which have failed and still fail to make any progress towards fulfilling obligations they solemnly undertook.

This is, in some measure, an academic issue. A much more immediate and dramatic justification of the United Nations' concern with colonialism lies in the fact, proven a thousand times in history, that the ending of empires becomes all too easily the beginning of wars. It is a point I hardly need to elaborate. Examples are strewn, like wrecks, on the seabed of the human record. When one system of power collapses—whether from external pressure or internal decay—other systems, aspiring to enjoy its earlier influence and control, move in to fill the vacuum. And in the twilight zones of power, between systems collapsing and others emerging, the dangers of war are at their most acute.

Seen in this light, one of the most dangerous crises in our world today—the future of Berlin and Central Europe—in some measure reflects a post-imperial interregnum. We have still to work out stable alternatives to the old jostling for power between the decaying Turkish and Hapsburg empires and the expanding German and Russian imperialisms. Mr. Khrushchev may not accept the analogy, but Communist power in Eastern Europe, far from representing the vanguard of a new and revolutionary world, is the tail end—we hope—of man's oldest international system, which is imperial control.

In this century we are making audacious and heroic efforts to bring the system of imperialism itself to an end. There are three discernible elements in the attempt—all genuinely revolutionary. The first is to apply to nations and peoples the principles we are trying to apply—with comparable ups and downs—to individual citizens: the principle of their equality before the law and of equal weight given to their ultimate political decision. One man, one vote; one nation, one vote.

The efforts of this system can be very strange. No one supposes that, in spite of equality of voting rights, the head of the United States Steel Corp. has no more influence on American society than an unskilled laborer in one of his plants. There is an element of fiction in the equality.

In the same way Nepal, shall we say, does not pretend to carry the same weight in world society as, for instance, its neighbor, India. Yet its equal vote in the United Nations is a first step toward a covenanted political recognition, by international society, of its right to separate statehood and its right not to be handed over to the political control of more powerful neighbors.

The right of small nations to independence in a new post-imperial age is as astonishing as the right of commoners to protection and due process of law in a post-feudal age. And it is an essential part of the struggle to end imperialism—for it substitutes constellations of independent communities, great and small, for the old imperialist penumbra or "spheres of influence" within which most small peoples have hitherto had to live.

The second principle is that great powers recognize this new right of the weak not to be engulfed. Like the coexistence of rich and poor, of influential and weak, inside domestic society, international laws and constitutions only partially safeguard the freedom of small nations. The powerful have, in proportion to their power, a duty to play the game.

I believe that the Western nations on the whole recognize this restraint. Much of the retreat from Western colonialism in the last two decades springs, I believe, from a genuine revulsion against the idea of domination. And it is my hope that the United States, which has a giant's strength, will always abstain from using it like a giant to coerce or overawe the weak.

The third line of attack is most relevant to the peacemaking functions of the United Nations. If, in the dissolution of empires, we are left with nothing but the choice between competing systems of power, then it is hard to see how the world can avoid staggering on from one Balkan-type crisis to the next, each time lurching closer to the hideous rim of Armageddon. If every European retreat from direct control threatens to bring in as direct a control by the Communists, or to abandon local populations to the outdated paternalism of white settlers—in either of these events we are in for strife.

It is here, as I see it, that the peacemaking functions of the United Nations are most vital and most urgently in need of being systematized and expanded. To my mind, the Congo operation, far from representing a usurpation of power by an arrogant Secretariat, is precisely the type of operation which the United Nations should dare to undertake, and in which we must pray to see it succeed. And the courage of the United Nations and its backers in rescuing the Congo, through all the chaos and all the fog of fanatic propaganda, will stand—let us all hope—for years to come as a warning against those who would prepare the tinder box for other Congos.

Without the United Nations, might not central Africa already offer a total polarization of hostile power? Might we not find Katanga, ranged on one side with white southern Africans and some Europeans, and on the other side African nationalism in Leopoldville and Stanleyville, supported by most of black Africa and all of the Soviet bloc?

This is precisely the kind of crystallization of conflict every continent must seek to avoid. The long, patient effort of the United Nations to foster unity and stability in the Congo, under leadership which cannot be accused of partisanship with either world bloc, may yet represent the United Nations' most significant triumph and the clearest pointer to where its influence and its spirit can most effectively extend. Here is a lesson in statesmanship and reconciliation which, for the sake of peace and freedom in Africa and the world, should be taken to heart by all who struggle today—both rulers and ruled alike—from Luanda to the cape.

We cannot undo the world which science is making over for us. With or without an embryonic instrument of international order, the overwhelming need for order remains. It is written into our conquest of space, our instant communication, our common neighborhood of potential atomic death. We can no more live without an attempt at international order than we can run New York's traffic without rules of the road. Critics so often speak and interpret events as though there were some ideal alternative from which we have slipped or which we can attain simply by letting the United Nations fade away.

There are no such alternatives. However much like-minded groups of states may concert closer understandings, they must still live in the world with all their neighbors, friendly or hostile, alined or neutral, and struggle for that minimum of order, conciliation, and peaceful change which this jostling world ineluctably requires.

If we had no United Nations, it would be necessary to invent one—and it would not differ very greatly from what we have now. This is just about all the law and order our anarchic world will swallow today. If we are to advance to higher standards or greater security, we must work on patiently from the spot we have already reached and not jettison our few working examples of genuine international action in favor of something more ideal—which we shall not get—or more innocuous, which will not meet our needs.

What we have is man's first sketch of the world society he has to create. He can build better than this—so much is obvious. But will he go on building at all if we are forever tearing up the foundations? The experiment of living together as a single human family—and we can aim at no less—is more likely to grow from precedent to precedent, by experience and daily work and setbacks and partial successes, than to spring, utopian and fully formed, from the unimaginable collective agreement of world minds. Let us go on with what we have. Let us improve it whenever we can. Let us give it the imaginative and creative support which will allow its authority to grow and its peace making capacities to be more fully realized.

COUNTRIES RECEIVING U.S. AID BUY MADISON AVENUE ADVICE

Mr. PROXMIRE. Mr. President, the Wall Street Journal of this morning reports an alarming trend that has been developing among countries which have been receiving foreign aid from the United States. The article points out that a prominent Madison Avenue public relations firm—Kastor, Hilton, Chesley, Crawford & Atherton—has been hired by South Vietnam to improve the image of South Vietnam in this country; and the article states that that concern is being paid $100,000 a year, plus expenses.

The article also points out that among other countries which have signed such contracts with American public relations firms are the Ivory Coast, Iran, Nigeria, and the Netherlands Antilles, in addition to South Vietnam.

In other cases, the article states, foreign nations set up their own information offices in the United States; and these, in turn, frequently retain public relations counsel here.

Mr. President, as the article points out, it is ironic that American taxpayers' money is used—although indirectly, it is true—to persuade the American people to continue foreign-aid programs of the generosity and the kind which our people have been providing.

I called attention to this same practice nearly a year ago, when I placed in the CONGRESSIONAL RECORD a comprehensive, well-documented article from the Reporter magazine, written by Walter Pincus and Douglass Cater, entitled "The Foreign Legion of American Public Relations." On the basis of that article and today's report in the Wall Street Journal, I believe that this is a situation which well merits full study and investigations by Congress.

I ask unanimous consent that the full text of the article in the Wall Street

Journal be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PROPAGANDA PUSH—FOREIGN EFFORTS TO WIN SUPPORT IN UNITED STATES GROW, SCORE SOME SUCCESSES—SOUTH VIETNAM, NIGERIA HIRE PUBLIC RELATIONS MEN HERE—CONGO RIVALS PRESS VIEWS—U.S. TAXPAYERS SELL SELVES

(By Edmund K. Faltermayer)

NEW YORK.—For American reporters in embattled South Vietnam, the men to see to arrange interviews with Vietnamese officials are two on-the-scene representatives of the New York public relations firm of Kastor, Hilton, Chesley, Crawford & Atherton. The Kastor-Hilton operatives perform many such public relations chores for President Ngo Dinh Diem's government, always with the goal of enhancing the regime's image in the United States. For these services, South Vietnam pays the concern $100,000 a year, plus expenses.

South Vietnam's efforts to arouse broad support and sympathy in the United States is part of a growing phenomenon: The use of Madison Avenue talent and techniques to "sell" foreign countries and causes to the American public. In some cases, foreign interests hire American public relations firms to run their propaganda campaigns. In others, foreign nations set up their own information offices in the United States, and these, in turn, frequently retain public relations counsel here.

Ironically, many of the nations spending dollars this way are countries receiving U.S. aid. Americans thus are indirectly paying for some of the propaganda being beamed at them. Another note of irony: Some of the nations spending dollars to woo American opinion—Vietnam, for example—are at the same time spending heavily to win the support of large segments of their own population that are apathetic or even hostile to their government.

The foreign campaign to cultivate the good will of Americans—who themselves have been working for years through the U.S. Information Agency to win friends and influence people abroad—has intensified greatly in the past year or so. During that period, the Ivory Coast, Iran, Nigeria, and the Netherlands Antilles, as well as South Vietnam, have signed contracts with American public relations firms. So have the government of West Berlin and a group of Portuguese companies operating in the colony of Angola, where African nationalists are seeking to break away from Portugal.

ADOULA VERSUS TSHOMBE

Both sides in the dispute between the central government of the Congo and secessionist Katanga Province are pleading their causes in the United States by means of vigorous public relations efforts. At its office on Fifth Avenue here, Katanga Information Services, headed by a Belgian named Michel Struelens, cranks out press releases aimed at winning friends for Katanga. Recently, Mr. Struelens was busy disseminating the story of the temporary detention of Katangese President Moise Tshombe when he tried to leave Leopoldville, the Congo's capital city, to return to his own capital at Elisabethville, following inconclusive talks with Congolese Premier Adoula on ending Katanga's secession.

To tell its story, the Leopoldville government recently opened the Republic of the Congo Information Bureau here. This organization has hired Milburn McCarty & Associates, a New York public relations firm only five blocks away from Mr. Struelens' office, to assist it.

Other dissident movements abroad besides Katanga's are active in the United States. The public relations firm of Lem Jones Associates, called the "foxhole on Madison Avenue" when it handed out communiques for the abortive U.S.-backed exile invasion of Cuba a year ago, still represents anti-Castro Cubans. More recently the firm of Harold L. Oram, Inc., has taken up the cause of political refugees from Ghana who oppose the leftist policies of President Kwame Nkrumah.

SPENDING RISES

Alongside these relatively new propaganda efforts, such long-time public relations users as Liberia, Chile, Nationalist China, Mexico, Italy, Britain and South Africa are continuing their programs. All this activity is pushing up total outlays for foreign-sponsored propaganda in the United States. Precise spending totals are impossible to come by, however, since some expenditures undoubtedly are concealed and in other cases it's impossible to separate outlays for political propaganda from those for such things as trade promotion.

A minimum figure for all sorts of foreign propaganda and information spending here except tourist promotion can be obtained from an examination of the statements that representatives of foreign interests must file with the Department of Justice. These statements show the total was at least $5 million in 1960, the last full year for which records are available. But most authorities are sure the actual total is much higher than this.

The biggest single spender by far is the British Information Service, with reported outlays of $1,169,006 in the United States in 1960. The BIS is concerned mainly with supplying facts on British affairs to the press and interested individuals; it hardly ever distributes arguments in support of British political positions. The Information Service of India ranked second in spending in 1960, with expenditures of $305,747. One of the Indian office's major efforts of late has been to defend India's invasion of the Portuguese enclave of Goa last December. A sample Indian background statement: "Portugal's conquest of Goa has been a long story of barbarity, atrocity and horror."

Two other active—and constantly conflicting—foreign propagandists in the United States are the Arab States and Israel. The Arab Information Center, jointly financed by 10 mideast nations, spent $183,172 in 1960. Israel's outlay was reported at $108,764 for the same year.

With the exception of the British Information Service's expenditures, all these outlays seem certain to be topped by the Portuguese companies in Angola. Their contract with the public relations concern of Selvage & Lee calls for disbursing up to $500,000 a year for such things as combating "false and misleading information" about recent internal strife in the African colony. Last year's fighting in Angola, says a booklet put out on behalf of the Portuguese companies, wasn't a rebellion at all but "part of the International Communist conspiracy, a part of the plan to destroy the United States itself."

Why do so many foreign countries think wooing American public opinion is worth hiring specialists from Madison Avenue, where much of this country's public opinion molding talent is concentrated? The reasons are both psychological and economic. Leaders of many newly independent nations are acutely conscious of their lack of international status; to them, projection of their national personality or image is vitally important.

And in the long run, U.S. public opinion does greatly affect congressional foreign aid votes and State Department decisions on how aid money—$3.9 billion in the current fiscal year—will be divided. A favorable climate of opinion also is deemed important, at least by many foreigners, for attracting private investment overseas.

The techniques used by propagandists to mold favorable attitudes toward a nation—or darken the image of its enemies—vary widely. The most time-honored device, of course, is the press release. But work hardly stops there.

MOVIES FOR NATIONALIST CHINA

For their foreign clients, U.S. public relations firms prepare brochures for libraries and schools, arrange for sympathetic lecturers to speak before all sorts of luncheon clubs and civic organizations and publicize visits of foreign officials. Lem Jones talked the caretakers of Independence Hall in Philadelphia into keeping the place open late one night last year so a touring group of anti-Castro Cuban women could be photographed beside the Liberty Bell. The Hamilton Wright Organization, working for the Nationalist Chinese Government, has concentrated on producing films emphasizing accomplishments of the Formosa government; at least one of these films was shown by New York's famed Radio City Music Hall.

Most public relations practitioners make a point of staying out of the spotlight themselves when working for a foreign client. Says James J. Larkin, whose firm was retained by Nigeria at the start of this year to handle such chores as press relations and preparation of a weekly radio program for free distribution to stations: "Our particular concept of government public relations is to remain as far in the background as possible. Everything that we put out has the masthead of the Consulate General of Nigeria."

Some firms don't even issue press releases or other publicity material, preferring to stick to an advisory role. The Roy Bernard Co., which has represented West Germany since 1949, confines itself to keeping Chancellor Konrad Adenauer's government posted on trends in American public opinion and to suggesting ways the West Germans can best tell their own story in the light of this opinion.

Frequently a public relations firm does much of its work through an independent committee composed of American citizens. Thus, Selvage & Lee has helped prepare and distribute some booklets that were issued by the Portuguese-American Committee on Foreign Relations of Boston. Such booklets, because they're issued by an American organization, don't have to carry a notation indicating they contain foreign propaganda; such a notation would be required by Federal law if the booklets were put out directly by Selvage & Lee, a registered representative of a foreign interest.

CRITICAL NEWSMEN

Most public relations firms handling foreign government accounts operate both in the United States and in the client country. Sometimes a Madison Avenue crew will travel abroad to collect the first meaningful statistics a client nation has ever had. Kastor-Hilton does all its work for South Vietnam abroad—not always, it appears, to the unmixed satisfaction of American newsmen stationed there. Uruguayan-born Jorge Ortiz, the firm's chief in South Vietnam, on occasion has confronted newsmen on the streets of Saigon with copies of their stories with unfavorable passages heavily underlined; though the United States is heavily backing South Vietnam's fight against Communist guerrillas, President Diem's regime has been criticized for its authoritarian tendencies. On the other hand, some correspondents argue that the presence of U.S. public relations men in Saigon makes President Diem more accessible.

Does foreign-sponsored propaganda pay off? Because of the nebulous nature of most public relations work, its effectiveness is usually difficult to measure. It seems reasonably clear that in the pre-Castro days the Washington public relations firm of Samuel

E. Stavisky was influential in helping win a greatly increased sugar sales quota for Cuba by flooding local newspapers around the United States with stories dramatizing how much their communities would benefit from increased trade with the island.

The State Department figures, somewhat unhappily, that the work of Katanga publicist Struelens has widened U.S. public support for that province's independence from the Congo Republic. It's highly doubtful this public sentiment will alter the basic U.S. commitment to United Nations policy in the Congo, which most emphatically doesn't include Katangan independence. But the Congo controversy is far from over and secessionist Tshombe may well wind up with a better deal for Katanga than would have been the case if he'd had no public backing in the United States.

"This sort of propaganda is mainly a nuisance," says a State Department official, "but in the case of Katanga it can be one hell of a nuisance. It doesn't change policy but it keeps people so busy countering it that they can't get to other things they should be doing."

There's a limit, public relations men say, to what even the most astute publicity campaign can do. The huge sums spent in this country by the late Gen. Rafael Trujillo, former dictator of the Dominican Republic, didn't in the end prevent the United States from agreeing to economic sanctions which hastened the overthrow of his family dynasty. Among other things, General Trujillo spent $650,000 on an inquiry, arranged by the Sydney Baron public relations firm, which cleared the Dominican Government of charges it had kidnapped and killed an anti-Trujillo professor at Columbia University.

FEDERAL AID FOR THE TREATMENT OF NARCOTICS ADDICTS

Mr. JAVITS. Mr. President, I wish to call the attention of the Senate to the new attitude which now has been taken in regard to the treatment of victims of narcotics addiction. In the Federal Government and also in State governments there is now a great impulse and movement to bring about the medical treatment of these unhappy people; and, indeed, the Department of Justice has declared itself as being in favor of this type of commitment. But, Mr. President, this will fall upon barren ground, indeed, if there are no medical facilities to deal with the problem. It is for that reason that in the companion measure which I have introduced with my colleague from New York [Mr. KEATING], of which I am the principal sponsor, we are proposing a hospital where it is most needed; namely, New York. This is not speaking in derogation of the hospital at Lexington, but, as is not true of the facilities in the Blue Grass country, this situation will be taken care of by civil commitment for those who are narcotic addicts and who are brought into criminal courts without being dealers or pushers of narcotics.

I urge the attention of our Government in giving consideration to the complete package program, by pointing out this provision is already the law in New York and it is the law in California. These two States are the ones principally impacted with the problem. Therefore, we need a narcotic hospital in New York with Federal aid, which is the purpose of the bill to which I have referred.

I ask unanimous consent to have printed in the RECORD as a part of my remarks a news story from the New York Journal-American, which refers to the Kings County American Legion support for the proposal. That group is located in Brooklyn, N.Y., which has a population greater than that of most American cities, being several million. The Legion urges the building of such a hospital in accordance with the program I have described. I hope very much the fine campaign being conducted by the Hearst newspapers and the New York Journal-American in this matter may at long last result in action on the two bills to which I have referred.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

KINGS LEGION URGES HOSPITAL FOR ADDICTS

(By James D. Horan, Dom Frasca, and John Mitchell)

The Kings County American Legion added its voice today to increasing demands for additional hospital facilities for narcotics addicts in New York City.

With the county's 18,000 Legionnaires behind him to lend weight to his words, County Commander William T. Bellard declared:

"The immediate construction of a new hospital or the rehabilitation of an existing one is urgently required to care for the thousands of sick addicts who will be eligible for medical treatment in New York State during 1963."

Mr. Bellard referred specifically to a provision of the recently enacted Metcalf-Volker law which will allow certain arrested addicts to elect commitment to a hospital rather than jail.

His demands for a new hospital came less than 24 hours after Queens District Attorney Frank D. O'Connor sent a telegram to Governor Rockefeller describing the Metcalf law as a "dust-catching blueprint."

Mr. O'Connor criticized the State's "overly cautious approach" to the narcotics problem and asked the Governor to order immediate additions to the department of mental hygiene's existing addict treatment wards. Total bed capacity in the wards is only 155.

These and other protests were touched off last week when the New York Journal-American revealed that Dr. Paul Hoch, commissioner of medical hygiene and chief administrator, narcotics program, planned no immediate expansion of existing narcotic hospital facilities.

MANY ARE WAITING

It was also disclosed that more than 400 addicts voluntarily seeking admission to municipal narcotic wards are now faced with waiting periods of 2 to 4 months.

The need for a special hospital was also advanced today by Assemblywoman Aileen B. Ryan, Democrat, of the Bronx.

Mrs. Ryan said a survey she conducted recently among the mothers of 51 Bronx dope addicts indicates practically all favor the establishment of a narcotics hospital in New York City.

"It is our moral responsibility to care for these addicts," said Mrs. Ryan, a member of the Committee of 500 Against Teenage Dope Addiction.

Last Friday, the committee's cochairman, Kings County Judge Hyman Barshay and Assemblyman Stanley Steingut, charged that 6,000 to 8,000 addicts would be "denied" their legal right to hospital beds in 1963 unless existing facilities were drastically expanded.

SUMMER ADJOURNMENT FOR CONGRESS

Mr. McGEE. Mr. President, if I read my calendar correctly, not only is this the month of May, but we are on the brink of another summer season, with the Senate still very much in the prospect of a full summer tour of duty here in the Capital. The Senate has been in session throughout every summer since I have been a Member of this body.

As my colleagues may recall, a year ago I submitted a concurrent resolution, Senate Concurrent Resolution 16, which would adjourn the Congress during the summer months, which would in effect be a summer recess. The proposal was motivated not only because of the weather in this part of the country at that time of year, but was also motivated fundamentally because of the opportunity it would afford the families of Senators and Representatives to be together at the one interval of the year when it was possible. The resolution provides that Congress would reconvene in October, or at the call of the majority and minority leaders, and then continue until we had proceeded through the cycle of our business endeavors.

This concurrent resolution has not been pressed vigorously this year. This is an election year. Midterm elections are on tap.

One of the reasons why pressing for the resolution has not been undertaken by me is that the suggestion has been made that in an election year Congress will be under some determination to get out of here and get back to its constituency in order to mend fences in time for the November showdown. However, it is difficult for me to see anywhere on the legislative horizon or in the confines of this Chamber the fact that the impetus of a forthcoming election will in fact spur us on to a more rapid end to this session.

However eager some of us may be to return to our home States to renew our ties with our constituents, there is no indication we are going to come to this. It is now quite evident, in fact, Mr. President, that, elections or not, this body is unable to avoid stretching its deliberations well into what are commonly called the dog days.

I should like to emphasize two points about this resolution. First, it would provide more time in session, rather than less. This is not an attempt to get the Senate of the United States out of work. It is, rather, designed to keep it at work.

More and more, it is becoming abundantly obvious to those of us in this body that the business of the greatest power on earth, the most prosperous nation on the globe, is a full-time job, and not a 6-month, or 8-month, or 9-month job. And since we are to be in session around the calendar, anyway, I can see no reason why our periods of adjustment for a recess should not come at a time when it would be most convenient to our families and the school schedules involved, as well as ourselves personally.

In the second place, I would suggest that this resolution has a broad base

of support, both in this body and in the other body, the House. Thirty-two Senators are cosponsors. It should be pointed out that almost half of the Members of the Senate have children of school age, and nearly all the remaining Members of this body have grandchildren of school age. I am sure that the domestic harmony in the licenses that are accorded to grandparents would be reflected favorably in the enactment of and the living up to such a resolution. This is not to say anything of the recuperative powers of a rest from the summer heat and a vacation midpoint in our hectic schedules. I am sure we would approach our duties with renewed vigor and determination upon our return in the fall.

The PRESIDING OFFICER (Mr. METCALF in the chair). The time of the Senator has expired.

Mr. McGEE. I ask unanimous consent that I may continue briefly, in order to conclude my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McGEE. On the House side, there has been manifested an active and broad support for such a recess on the part of Congress. I think the moment is propitious to serve notice that an assault on this problem in the form of vigorous pursuit of the resolution will be undertaken when we reconvene next January.

I should not omit the implications in this proposal for all staff members as well. While I have dwelt upon the subject of the children of Members of the Senate and of the House, I think we ought to remember that more than 600 or 700 children of school age of Senate staff members alone likewise would be affected by this proposal.

The moral incentive and plain good sense combine to render favorable action on the part of the Congress of the United States on this proposal.

I am confident adoption of the resolution will increase the efficiency of Congress and likewise will be a more realistic facing up to the fact that being a Member of the House or of the Senate in the United States of America in these days is, in all truth, a full-time job, and not a part-time job. The quicker we face this reality, the more effectively and the more efficiently will we operate on the business of the Nation that is at hand.

JAMES M. NORMAN — LITERACY TEST FOR VOTING—AMENDMENT

Mr. KEATING. Mr. President, I send to the desk an amendment to the amendment known as the Mansfield-Dirksen amendment, on behalf of myself and Senators DOUGLAS, JAVITS, SCOTT, HART, CASE of New Jersey, BUSH, and MORSE, and I ask that it be read.

The PRESIDING OFFICER. The amendment will be stated by the clerk.

The legislative clerk read as follows:

Amendment intended to be proposed by Mr. KEATING (for himself, Mr. DOUGLAS, Mr. JAVITS, Mr. SCOTT, Mr. HART, Mr. CASE of New Jersey, Mr. BUSH, and Mr. MORSE) to the amendment in the nature of a substitute proposed by Mr. MANSFIELD to the bill (H.R. 1361) for the relief of James M. Norman.

On page 3, line 3, add immediately preceding the present text of section 2, a new subsection to read, as follows:

"(a) Subsection (a) of section 2004 of the Revised Statutes (42 U.S.C. 1971), as amended, is amended to read, as follows:

"'(a) All citizens of the United States who are otherwise qualified to vote in any State election, shall be entitled and allowed to vote and shall not be deprived of the right to vote at such election on account of race, color, or previous condition of servitude; any constitution, law, custom, usage, or regulation of any State, or Territory, or by or under its authority, to the contrary notwithstanding. Deprivation of the right to vote shall include but shall not be limited to (1) the application to any person of standards or procedures more stringent than are applied to others similarly situated and (2) the denial to any person otherwise qualified by law of the right to vote on account of his performance in any examination, whether for literacy or otherwise, if such person has not been adjudged incompetent and has completed the sixth primary grade of any public school or accredited private school in any State or Territory, the District of Columbia, or the Commonwealth of Puerto Rico.

"'"State election" means any general, special, or primary election held solely or in part for the purpose of electing or selecting any candidate for any office established by or under the constitution or laws of any State, Commonwealth, territory, district, county, city, parish, township, school district, municipality, or other territorial subdivision.'

"(b) Designate the present text of section 2 with the subsection symbol '(b)'."

Mr. KEATING. Mr. President, I ask that the amendment be ordered to be printed and to lie on the table.

The PRESIDING OFFICER. Without objection, the amendment will be received, printed, and will lie on the table.

Mr. KEATING. Mr. President, the provisions of the present civil rights laws are codified in title 42, section 1971, of the United States Code. Subsection (a) of section 1971 guarantees the right to vote in State elections without distinction of race, color, or previous condition of servitude. Subsection (b) of section 1971 guarantees a similar right in Federal elections. Subsection (c) authorizes injunction suits by the Attorney General to enforce the right to vote in both State and Federal elections.

The pending amendment to H.R. 1361, which contains the provisions of S. 2979—the literacy bill—would amend subsection (b) of section 1971 and would be applicable only to Federal elections. My proposed amendment would amend subsection (a) of section 1971 and would apply to State elections the same prohibitions which the pending amendment would apply to Federal elections.

Subsection (a) of section 1971 of title 42 now reads as follows:

(a) Race, color, or previous condition not to affect right to vote.

All citizens of the United States who are otherwise qualified by law to vote at any election by the people in any State, Territory, district, county, city, parish, township, school district, municipality, or other territorial subdivision, shall be entitled and allowed to vote at all such elections, without distinction of race, color, or previous condition of servitude; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding.

My amendment would revise this text so as to spell out the specific deprivations of the right to vote in State elections in the same terms as appear in the pending Mansfield-Dirksen amendment. In order that the proposed changes in the text be clear, I ask unanimous consent that the text of my amendment be printed at this point in the RECORD with the new language enclosed in black brackets.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

(a) All citizens of the United States who are otherwise qualified to vote in any State election, shall be entitled and allowed to vote [and shall not be deprived of the right to vote] at such election on account of race, color, or previous condition of servitude; any constitution, law, custom, usage, or regulation of any State, or Territory, or by or under its authority, to the contrary notwithstanding. [Deprivation of the right to vote shall include but shall not be limited to (1) the application to any person of standards or procedures more stringent than are applied to others similarly situated and (2) the denial to any person otherwise qualified by law of the right to vote on account of his performance in any examination, whether for literacy or otherwise, if such person has not been adjudged incompetent and has completed the sixth primary grade of any public school or accredited private school in any State or Territory, the District of Columbia, or the Commonwealth of Puerto Rico.

["State election" means any general, special, or primary election held solely or in part for the purpose of electing or selecting any candidate for any office established by or under the constitution or laws of any state, commonwealth, territory, district, county, city, parish, township, school district, municipality, or other territorial subdivision.]

Mr. KEATING. Mr. President, I also ask unanimous consent that the present text of section 2 of the pending amendment be printed at this point in the RECORD with the new language it proposes in subsection (b) of section 1971 of title 42 in brackets.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the section was ordered to be printed in the RECORD, as follows:

(b) No person, whether acting under color of law or otherwise, shall intimidate, threaten, coerce, or attempt to intimidate, threaten, or coerce any other person for the purpose of interfering with the right of such person to vote or to vote as he may choose in any Federal election, [or subject or attempt to subject any other person to the deprivation of the right to vote in any Federal election. "Deprivation of the right to vote" shall include but shall not be limited to (1) the application to any person of standards or procedures more stringent than are applied to others similarly situated and (2) the denial to any person otherwise qualified by law of the right to vote on account of his performance in any examination, whether for literacy or otherwise, if such other person has not been adjudged incompetent and has completed the sixth primary grade of any public school or accredited private school in any State or territory, the District of Columbia, or the Commonwealth of Puerto Rico.

["Federal election" means any general, special, or primary election held solely or in part for the purpose of electing or selecting any

candidate for the office of President, Vice President, presidential elector, Member of the Senate, or Member of the House of Representatives, Delegate, or Commissioner from the territories or possessions.]

Mr. KEATING. Mr. President, it is apparent from a comparison of these provisions that the language of my proposed amendment would make the precise changes in the present voting statute for State elections as the language of the pending amendment would make in the present voting statute for Federal elections. Furthermore, because the amendment is offered as an amendment to sections of the Civil Rights Act of 1957 and 1960, all of the other pertinent provisions of those acts, such as the right of injunctive relief and the procedure in contempt cases, will be applicable.

Mr. President, the purpose of the literacy bill is to help insure that no citizen, of whatever origin or race, is arbitrarily denied the right to vote in this country. We must guarantee that right by providing safeguards against the willful abuse of power. Our objective is to enforce the command of the Constitution against racial discrimination at the ballot box. We are attempting to fulfill a solemn obligation by making certain that qualified citizens are not arbitrarily denied the privilege of the franchise. Our Constitution was not designed for display on national holidays. Its commands are not to be treated as slogans for patriotic speeches. It is a living document for every day's affairs, and it is up to us to breathe life into all its provisions.

The goal of this debate is clear: The guarantee of the right of all our citizens to participate through the ballot in the operation of their government. Without this right, a free society stands only on the quicksand of caprice, and our ideal of a representative government of the people is tarnished.

A representative government of freemen was the motivating force behind the Declaration of Independence. The 13th, 14th, and 15th amendments embraced our fellow Americans of the Negro race within this concept. What this proposal is attempting to carry out is the promise made by another generation in the 15th amendment, a promise that for far too many generations now has been breached.

The amendment now before us will only get the job half or less than half done, since it is specifically limited to Federal elections. We must not stop at this point. The measure should apply to both Federal and State elections. The discriminatory practices to which this proposed legislation is directed are not confined to Federal elections. If the amendment as now written is adopted, we will provide additional guarantees for voting for Federal offices, while at the same time leaving a great void in protecting against arbitrary practices in State and local elections. Are we to guarantee our citizens a voice in Washington and then deny them the same guarantee in the election of officials in the State and community in which they live? The answer must surely be "No."

Actually, the enactment of such a measure limited only to Federal elections would impose unwarranted and unnecessary burdens upon our States. With only two exceptions, there is no State in which there are separate registration procedures or separate ballots for Federal and State elections. Ordinarily, voting for Federal officers occurs as part of a general election at which State and local officers are also elected. All officials to be voted on—Federal, State and local—are listed on the same ballot.

The PRESIDING OFFICER. The time of the Senator from New York has expired.

Mr. KEATING. Mr. President, I ask unanimous consent that I may proceed for an additional 3 minutes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from New York? The Chair hears none, and it is so ordered.

Mr. KEATING. Mr. President, should we only apply this measure to Federal elections, separate ballots would have to be drawn up, one for voting in Federal elections, one for voting in both Federal and State elections. Two different procedures for voting would have to be set up by the States, unless, of course, the States would voluntarily comply by applying the provisions of this bill to their own elections as well as to Federal elections. Unfortunately, we have no such assurances.

In order to correct this situation, I have presented today an amendment to the literacy bill which would apply its provisions to both Federal and State elections.

The right to vote in a State or local election is often of greater practical significance to the individual voter than is the choice of a Representative or Senator. This should need no argument for any Member and particularly those Members deeply concerned with safeguarding States rights. If we are to guarantee the right to vote, we must not do a halfway job. We must apply the provisions of this bill to all elections. If we do not, the problems that this halfway completed task can create will force us to once again face this issue.

Applying this bill to both Federal and State elections will not run counter to the Constitution, but, in fact, will be carrying out the expressed scheme of the fundamental law. The 15th amendment clearly applies equally to State and Federal elections. This fact has not been contested, not even by our colleagues who so strongly oppose this measure. As will be seen in the hearings, the distinguished Senator from North Carolina [Mr. ERVIN] who, of course, contends that the present proposal is unconstitutional, concedes that to add State elections would be no more unconstitutional than the present proposal. In other words, they are on a parity. The 15th amendment plainly states that no citizen of the United States shall be denied the right to vote by the United States or by any State on account of race or color. The amendment encompasses the right to vote in all elections, whether State or Federal. Thus, the Constitution does not limit our action to Federal elections. It is only those responsible for the pending amendment who are posing that limitation.

We faced this same problem 2 years ago when the Congress enacted the voting referee bill. That measure also originally applied only to Federal elections. However, during hearings on the bill, the difficulties such a halfway approach would create, the same difficulties I have pointed out in reference to the bill before us, were brought out. We recognized these difficulties then, realized we were only attacking half the problem, and then enacted a bill that applied to both Federal and State elections. Thus, there is clear precedent for applying this measure to all elections, State and Federal.

I cannot be too emphatic on this point. If we enact the bill as now drawn, we will be attacking only half the problem and creating difficulties that we will have to resolve another day. The goal which we seek to obtain will still be far around the corner, still awaiting realization.

I am quite aware that enactment of this bill with or without my amendment will not solve all the problems of voting discrimination. We are not so naive as to believe that once this measure is behind us we will have succeeded in suppressing all of the devices and tactics which the opponents of constitutional government may contrive. But without this measure, without this additional guarantee, we will be condoning the invidious practices which already exist. With it, we can continue our steady progress toward a truly free and just society.

The right to vote, in all elections, is basic to this quest. Once we vouchsafe the franchise to all Americans, our efforts to eliminate discrimination in education, employment, housing and the administration of justice will be greatly aided. For, once these citizens who are now disenfranchised gain the equal enjoyment of the right to cast their ballots, their voices will be heard, and heeded.

There is much that needs to be done to strengthen civil rights in America. Yet I do believe that the most reprehensible form of discrimination is that which denies Americans equality at the polling booth. The right to choose one's representatives is at the very heart of our form of government. It is difficult to understand how any State could willfully and flagrantly deny this right to any of its citizens, when its very justification as a State rests upon active and diligent participation in its affairs by all its citizens.

Our colleagues who oppose this proposed legislation bemoan the fact that such bills come before this body each year. It would be helpful if they would consider the problems which make such measures necessary. It is because, and only because, some of our States continue to devise means to deny the rights of all Americans that these bills are necessary. When the abuses cease, no new bills will be offered. But until all our States cease to indulge in such invidious practices, Congress must continue to seek ways to enforce the Constitution and insure all Americans the equal enjoyment of their rights.

Much has been said by some of our colleagues on what our Constitution means. We have been subjected to long dissertations designed to prove that we are tearing asunder the foundation on which this Nation rests. These arguments misconceive the nature of our Republic and reflect a meager grasp of the American heritage. The plain fact is that Americans are being arbitrarily denied the right to vote because of the color of their skin. The suggestion that Congress is powerless to remedy such conditions does violence to our Constitution.

Some of our colleagues have quoted at length from the opinions of that great Chief Justice John Marshall in an attempt to prove their assertions that the Constitution is being tampered with. They remind us that "we must not forget that it is a Constitution we are expounding." I commend to my colleagues these words of that same great *Justice:*

> The subject is the execution of those great powers on which the welfare of a nation essentially depends. It must have been the intention of those who gave these powers to insure, so far as human prudence could insure, their beneficial execution. This could not be done by confining the choice of means to such narrow limits, as not to leave it in the power of Congress to adopt any which would be appropriate, and which were conducive to the end. This provision was made in a constitution intended to endure for ages to come and, consequently, to be adapted to the various crises of human affairs.

It is a crisis which we are facing now—a crisis of equal rights and human dignity. It is a challenge that we must not shirk—a challenge to guarantee the right to vote to all Americans in all elections. My amendment is designed to make certain that we meet that challenge at every level of government. It will be offered at the appropriate time in this debate, and I hope it will be overwhelmingly approved.

THE PEOPLE'S RIVER

Mr. YARBOROUGH. Mr. President, in a recent editorial the Washington Post stated:

> What needs to be immediately established is a concept of the Potomac as the people's river.

I agree wholeheartedly with this statement, insofar as the protection of the waters, shores and adjacent landscape in the National Capital area is concerned.

The Potomac River is too much a part of our Nation's mainstream for its scenic beauty to be neglected or its waters to be polluted.

The Washington Post suggested that Congress give the National Capital Planning Commission authority to review plans and control the building along the Potomac in and about the District.

In the years that I worked for Senate approval of a National Seashore Recreational Area on Padre Island, to preserve a part of that island off the Texas Gulf Coast, I learned the necessity for careful pre-planning.

I also learned that efforts to preserve one small natural wonder for the public in one section of the country benefits greatly from support in faraway places, for ours is an increasingly mobile population.

Our National Capital is no longer remote from anyone. Thus, the Potomac River is more than ever a river of the people and I support whatever action is necessary for the preservation of its beauty.

I ask unanimous consent to have printed in the RECORD an editorial entitled "People's River," from the Washington Post of Saturday, May 5, 1962.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington Post, May 5, 1962]

PEOPLE'S RIVER

The time has come, in our opinion, to provide a larger measure of protection over the Potomac River, its shores and adjacent landscape. The Potomac is the greatest scenic asset of the National Capital area. All planning for the Capital of the future begins with preservation of the river as the center of the city's recreational and scenic resources. But current events are proving that plans may be readily upset and the beauty of the river may be gravely impaired by decisions in real estate offices—decisions over which the public has no effective control.

Congress decided more than 30 years ago that the shores of the Potomac in this area should be in public ownership and that these natural parklands should be opened to public enjoyment by parkways extending from Great Falls to Mount Vernon on the Virginia side and from Great Falls to Fort Washington on the Maryland side. It is a reproach to Congress and the city that this dream has not yet been fully realized and that funds are still being withheld for the southeastern leg of this project. The first step in any comprehensive plan for preserving the people's river would be to acquire these missing parcels of land for parks and the parkway.

Beyond this is the question of protecting property still in private hands, but close to the river, from unsightly or incongruous developments. This problem has been flaunted in the face of the city by the proposal to clutter the Potomac Palisades with 17-story apartment buildings on the Merrywood estate above Chain Bridge. Under the terrific pressures that all such projects generate, the Fairfax Board of Supervisors caved in and granted a change of zoning which obviously imperils the whole concept of preserving the natural beauty of the river.

No one should suppose that this special privilege of building high-rise apartments on the Potomac Palisades would end at the Auchincloss estate. Already many other properties on or near the Potomac are threatened, including areas at Hatton Point and Indian Head. Historic Mount Vernon has been menaced by efforts to construct a sewage plant across the river. In our opinion, the public has a vital concern in what is built on or near this river.

We suggest, therefore, that Congress give the National Capital Planning Commission authority to review plans and control the building of any structure, other than a single-family residence, within say, 1 mile of the Potomac for at least 25 miles above and below the District. There is ample precedent for public control over the development of areas deemed necessary to the attainment of esthetic aims in the Nation's Capital. It would also be highly desirable to control the residential development of areas adjacent to the river so as to avoid stripping away the trees or otherwise marring the natural setting. This could be done by requiring low density and by forbidding any major change in the natural landscape.

What needs to be immediately established is a concept of the Potomac as the people's river. Its shores and adjacent areas should not be open to exploitation that will either contribute to pollution or spoil its natural beauty. The city cannot afford to let a few individuals impair this great asset which belongs to the millions who live in the area and other millions who will live here in the decades ahead. Prompt action seems to be imperative if this heritage of water, vegetation, cliffs, and an uncluttered riverside skyline is to be passed on to future generations.

THE SITUATION IN LAOS

Mr. MUNDT. Mr. President, the unhappy and distressing news reaching us recently concerning Communist advances in Laos certainly points up the fact that this administration needs to reappraise and revise its curious attitude toward the anti-Communist forces in Laos. Instead of trying to starve or force the anti-Communist Lao leaders into capitulating to the demands of the Lao Communists by withholding and delaying American aid to Laos, it would appear that if Laos is not to be lost or virtually given to the Communists we should step up rather than withhold the aid the loyal Lao so desperately need in this critical era.

The American people have never been given a satisfactory or convincing answer from our State Department or from the White House as to why our present Government seems intent upon forcing the loyal Lao leaders to form a coalition Government with Lao Communists in view of the sorry history lessons of history which clearly indicate a coalition with Communists is the first step toward inevitable control by the Communists.

In this connection, Mr. President, I ask unanimous consent to have printed in the RECORD as a part of my remarks an informative and interesting transcript of a recent radio report made by David Wills as part of the nightly issue of the "Three Star Extra" newscasts provided through the courtesy of the Sun Oil Co.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

THREE STAR EXTRA

(By David Wills)

The Royal Government of Laos is sending urgent delegations to some of its Asiatic neighbors in desperate search of economic aid. We cut off our aid 2 months ago, in a drastic attempt to force the Royal Government to merge with the neutralists and the Communist factions in a coalition government. Such a government, committed to neutralism in foreign affairs, was recommended by the Geneva Conference on Laos last year. But ever since then, the Royal Government has refused to swallow the medicine brewed for it at Geneva. The Royal Government accepts the principle of a coalition government but refuses to turn over to either the neutralists or the Communists the two key cabinet posts of defense and interior. Surrender of these two posts would open the way for the rapid Communist capture of all Laos. During the many months that these arguments have been continuing, we have put every kind of pressure upon the pro-Western Royal Government to force it into the neutralist embrace. By contrast the Communists of Viet Minh and of Red China

have been increasing their assistance to their factions within Laos, and the Soviets have been steadily airlifting economic and military supplies. Thus daily it becomes more and more likely that a coalition government would in fact mean the surrender of Laos to the Reds. There is a sharp contrast between our policy in Laos and what we are doing in neighboring Thailand and southern Vietnam. We have guaranteed Thailand direct military assistance in case of Communist threat. We are deeply committed in Vietnam to provide all the military and economic aid to defeat communism. Laos, lying between these two countries, is being used by the Reds as a channel of military subversion against these neighbors. Yet our policy toward Laos is helping to frustrate our aims in Vietnam and Thailand. No wonder the Lao Government is baffled.

Mr. MUNDT. Mr. President, during the same "Three Star Extra" newscast, its editor in chief, talented and highly regarded Ray Henle, discussed the situation in Indonesia and called attention to the public pronouncements of Sukarno which indicate his faith and confidence in the Communists. It is a "confession of infidelity" very similar to the one Castro belatedly made when he finally admitted his longstanding Communist membership. It is a statement of position and policy which all Americans should read—especially those who might be planning to support substantial amounts of additional American aid for Indonesia. I ask unanimous consent that the Henle report be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

THREE STAR EXTRA

(By Ray Henle)

President Sukarno of Indonesia must be given this much credit—occasionally he speaks so frankly one gets a clear view of where he stands.

Such was the case in Jakarta today. He spoke at the closing session of the Communist Party Congress. He claimed that he had brought respectability to the Communists of Indonesia.

"I am very happy," he said, "to have removed the Communist phobia from the minds of our people." Two years ago communism was regarded as Satan and the Devil by the majority of the Indonesian people. Now there is a general acceptance of the role they play.

Sukarno patted the Communists on the back. "They have beome strong," Sukarno said, "because of their opposition to imperialism." He went on to say—"You may say I give room to Communists and that I encourage them. But I often have emphasized I am serving the people's interest."

He ended up by calling on the Communists to join him. "Let's us go ahead together to complete our revolution."

So President Sukarno revealed himself. And here in the United States we see precisely the type of man who has been played up to by our Government—invited to Washington, wined and dined, as they say, and generally given the red carpet treatment.

We may have thought we could keep Sukarno from going arm in arm with the Indonesian Communists. Now we see by his own words that he lies in the same bed with them—and quite comfortably, at that.

SUPPORT FOR THE WILDERNESS BILL

Mr. HUMPHREY. Mr. President, as one who for many years has advocated and sponsored legislation to establish a National Wilderness Preservation System, I am most pleased that hearings begin this week in the House on the Senate-passed wilderness bill.

I am hopeful that this legislation which would preserve in its natural state for this and future generations those few remaining wilderness areas of our country will be approved this year.

This morning's New York Times lends its editorial support to such legislation and asks that the House strengthen the bill as passed last year by the Senate.

Certainly, Mr. President, this legislation deserves the support of this Congress. We have delayed far too long in acting on this conservation measure which has the overwhelming support of those who wish to preserve our country's natural beauty and landscape.

The bill as passed by the Senate makes most adequate provision to meet the various objections raised by certain commercial groups. This is a moderate bill, and I do not see how anyone looking at it in an objective fashion can refuse to give it full support.

I ask unanimous consent that the editorial from the New York Times be inserted at this point in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

A STRONGER WILDERNESS BILL

The House should write a stronger charter for wilderness preservation than the bill passed last year by the Senate. This it can do by keeping sight of the real purpose of the legislation, which is to protect those treasured remnants of the original American landscape that, by reason of geographical circumstance or good fortune, have survived to date in some of our national forests, national parks and wildlife refuges.

The purpose is not to provide exceptions or to write in ambiguities through which the areas may in the future be invaded for commercial purposes or have their beauty eroded by misuse.

The strengthening process can begin in the House Public Lands Subcommittee which has scheduled hearings and executive sessions on the Senate-passed measure this week. The subcommittee should remove the Aliott amendment that gives the Federal Power Commission the right to permit the building of dams in the wilderness areas. It should also remove the loopholes and vague language pertaining to "prospecting" for "mineral and water resources" and "the completely subsurface use of such areas." These weakening provisions are not needed; if it should become imperative in the national interest to harness a stream or extract the minerals in a wilderness area the President could under the act authorize such uses.

We urge the House to close the gaps left by the Senate and to resist the inevitable attempts to open new ones, thus assuring for future Americans "the benefits of an enduring resource of wilderness."

WITHHOLDING TAX ON INTEREST AND DIVIDEND INCOME

Mr. WILEY. Mr. President, the House-passed bill H.R. 10650—now before the Senate Finance Committee—contains a great many controversial features.

Prominent among these is the proposal for withholding taxes on interest and dividend income—as reflected in the tremendous volumes of mail now flowing into Congress.

Personally, I feel that this proposal should be stricken from the bill, either in committee or in the Senate.

Recently, the Janesville Daily Gazette published a fine, analytical editorial on this issue. I ask unanimous consent to have it printed at this point in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

UP TO THE SENATE

On the theory that withholding can be applied to investors in the same manner that wage earners suffer checkoffs on their wages, the House has approved a dividend withholding tax.

Aside from the obvious argument in favor of tax withholding—namely that the Government gets its money first regardless of anybody or anything else—there is nothing to be said for the whole system. At best it represents Government distrust of its citizens' ability to handle their personal affairs. At worst, it is a form of confiscation and an encouragement to reckless and unbridled political spending.

Insofar as wages are concerned the system at least can be made to work, utilizing the Nation's payroll machinery and personnel to do the tax collector's job. Unless by choice, there is hardly a taxpayer who contributes in withholding more than his actual tax liability, even though some odd ones have converted the tax collecting system into a sort of savings bank and greet their refund—loaned to the Government without charge over a period of several months—as a happy windfall.

The dividend withholding, however, has provisions which will have a punishing effect upon investors, and particularly upon the aged who depend upon dividends to support themselves. The bill now pending in the Senate calls for an automatic deduction of a flat 20 percent of dividend payments.

An elderly person with $2,000 income from such sources would be docked $400, and income reduced to $1,600. At a final showing of no tax liability, this could be recovered but meanwhile Washington would have had use of the $400 for months while the rightful owner of the money would have been impoverished by that much.

Quarterly refunds are in view, but in order to obtain them, investors will have to make claims each time, and those with higher incomes cannot claim quarterly refunds at all. Neither can churches, pensions funds and similar investors. They will have to wait until the end of the year to obtain release of dividend funds which never were subject to taxation in the first place.

Trust fund investors, who normally apply dividends to the purchase of additional shares, will come up with a 20-percent cut in their investments, representing the automatic "take" of the Government, even though these individuals may meet their tax obligations from other funds yearly, and many suffer investment loss.

The payoff, under the philosophy of the bill, may be best illustrated from the fact that the really small, and probably needy investors, with refunds of less than $10 quarterly, are barred from even making application for their money. This constitutes naked confiscation of the use of their money until such time as the Government gets around to give it back.

At the same time, it is a back-door confession of the Washington tax thinkers on the subject of administration costs of the bill. The reason the small refund claims are barred, of course, is that there would be thousands of them. Even when these are barred, the prospective cost of handling the withholding system is staggering. The

excuse for the plan is that dividends which now escape taxation will be taxed—but whether the cost of collection will exceed the additional revenues to be realized is open to question.

The decision is now in the Senate, and all shareholders and investors have a vital interest in the action there. Those with special interest are owners of a few shares of stock who need the income from it, those who have the handling of church, pension, and related tax exempt investments, and owners of trust shares. They will suffer directly and heavily. Larger investors, of course, will be hit to the extent of losing the use of a portion of their investment returns for extra periods of months, giving the Government the financial advantages which they now have for themselves.

Senator WILEY and Senator PROXMIRE ought to be on record on an issue of such importance to so many Wisconsin citizens, and expressions from citizens on their personal interests would be in order. The administration, and the House of Representatives have already spoken out for the selfish interests of the Government.

BIRTHDAY GREETINGS TO FORMER PRESIDENT TRUMAN

Mr. LONG of Missouri. Mr. President, I know that Americans from every walk of life, and men from all the countries of the world, join with me in sending "many happy returns of the day," to our friend and honored elder statesman—President Harry S. Truman, on this, his 78th birthday.

Few men of this or any time have been called upon to make decisions as grave as those which confronted President Truman, and no man has met his problems with greater courage, wisdom, and vision of the future of mankind, than he has. His rise from the most modest of circumstances to the highest and most important office in the world, did not come about by accident or chance. No, Mr. President, this was the inevitable result of the rare combination of the qualities of integrity, compassion, diligence, and sense of duty, found in Harry S. Truman.

We Missourians proudly describe our State as being "in the heart of America." That description could not be more appropriate than it is today when the "hearts of America" go to Independence to say: "Happy birthday, Mr. President."

ALASKAN MOTION PICTURE PIONEER, WILLIAM DAVID GROSS

Mr. GRUENING. Mr. President, William David Gross, who might well be called the father of motion pictures in Alaska, has died at the age of 82.

The facts of his life as told in Jessen's Weekly, published in Fairbanks, are that Mr. Gross was born in Russia on December 25, 1879, and was brought to the United States in early childhood by his parents, Zalmain and Annie Gross. He was educated in Seattle schools.

In 1900 he married Hansine Campen at Fairbanks. Survivors include a son, Zalmain D. Gross, of Seattle, and three daughters, Mrs. Zelma Gross Wheeler, of Juneau; Mrs. Sonja Gross Entner, and Romelle C. Gross, both of Seattle.

One of Mr. Gross' great interests in recent years was the annual collection of Christmas funds for Alaska Pioneers at the Pioneers Home in Sitka.

Mr. Gross came to Alaska on the *City of Seattle* and established a clothing store, Red Front, at Dyea, near Skagway, in 1897. He moved to Dawson, Yukon Territory, in 1898, where he also established a clothing store under the same name.

In Seattle on a buying trip, he noticed the growing popularity of animated photographs and bought a projector and some reels of film, leading toward the introduction of moving pictures at Dawson in early 1900—admission $1, three showings nightly, each show 15 to 20 minutes long, depending on the speed of the projector.

He sold his Dawson business in 1904 to attend the Louisiana Purchase Exposition at St. Louis, Mo., and he went to St. Paul, Minn., where heavy clothing for Alaska was manufactured.

He then returned to the territory and established Gross Clothing Store at Fairbanks and also introduced movies there. In 1910 he sold the Fairbanks businesses and went to the Jeffries-Johnson heavyweight boxing championship at Reno, Nev., returning to Alaska at Nome in 1910, where he introduced motion pictures with nightly showings.

He described these early motion pictures as having neither plot nor continuity but simply representing crying children, horseback riders, windblown flags, moving trains, and vessels.

He established the first "picture house" and introduced movies in Ketchikan in the fall of 1911 at the Coliseum Theater and within 2 years had established theaters by the same name at Wrangell, Juneau, Petersburg, Skagway, Haines, Douglas, and Sitka, all of which have been in operation since, except at Juneau, where the 20th Century replaced the other theater destroyed by fire in 1940, and at Wrangell, where the theater also burned.

Admission to the Sitka theater has been free to Pioneers' Home residents, with wheelchair and other aids provided when necessary.

He was a member of the Moose Lodge, and for many years he maintained a home both in Juneau and Seattle.

Gross embodied in his life the epic of America as the land of promise and the land of fulfillment.

Coming from the Old World, from a country then under the tyranny of czarism—and which, it might be added, was succeeded by an even more oppressive rule—as a poor boy, he found in this land of freedom the chance to develop talents which would never have flourished in the Old World he had left.

Thousands of Alaskans who, in the early territorial days, far distant from the cultural currents of the 48 States, were able to enjoy motion pictures almost as soon as they were invented are in his debt. Gross was perhaps not as well known in recent years in Alaska as he should have been because he spent his later years in Seattle. He and his children were responsible for bringing to Alaska the only statue which exists in Alaska, a splendid piece of sculpture in heroic size portraying the Alaska pioneer, and, which, over a decade ago, was dedicated in Sitka appropriately located in front of the Pioneers' Home. I was privileged, as Governor of Alaska at the time, to make a few dedicatory remarks on that occasion.

It is well at this time, when tyrannical totalitarianism exists over a large portion of the globe, and seeking to extend its oppressive control over other nations, to recall again and again with both pride and humility, both for ourselves and the rest of mankind, that ours is the land of liberty, the land of equality, and the land of opportunity, especially for those who know how to appreciate this priceless heritage.

We are all, Franklin Delano Roosevelt once remarked, the descendants of immigrants. These descendants should be everlastingly grateful to those forefathers who had the vision to pull up stakes in their homeland, and to embark on the greatest adventure of history in their quest for freedom. William David Gross and his parents traveled across two continents and the ocean in between to reach "the last frontier" in their quest.

ORDER OF BUSINESS

Mr. JAVITS. Mr. President, is there further business in the morning hour?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

Mr. JAVITS obtained the floor.

Mr. MANSFIELD. Mr. President, will the Senator yield to me, without losing his right to the floor, so that I may suggest the absence of a quorum?

Mr. JAVITS. I am glad to yield.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

JAMES M. NORMAN—LITERACY TEST FOR VOTING

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the unfinished business be laid before the Senate and made the pending business.

There being no objection, the Senate resumed the consideration of the bill (H.R. 1361) for the relief of James M. Norman.

Mr. JAVITS. Mr. President, we have heard more than 2 weeks of discussion of the pending bill. We are approaching a cloture vote tomorrow, which will be a historic vote. It seems to me that the proponents of the bill might very well endeavor to give a rather complete summary of their argument at one time and one place so that Senators who may be called upon to vote tomorrow may, if they choose, have the arguments all together, especially the arguments in opposition to the bill.

I think those arguments are epitomized—and I do not believe any of my

colleagues will feel themselves excluded if I endeavor to epitomize them—by the argument made by the distinguished Senator from Georgia [Mr. RUSSELL] at page 7139 of the debate, on April 24, 1962. The Senator from Georgia said:

My attitude toward the proposed legislation is based on the fact that I am completely convinced—and I am not referring in any invidious fashion to the two authors of the bill—that this is an attempt by force to bring the bill to the Senate in an effort to rewrite the Constitution without going through the amending process that is prescribed in that document.

In short, an effort has been made to dress up what I call unilaterally a filibuster, and keep it from being naked by dressing it with the clothes of an allegedly legitimate argument on constitutionality.

Senators in opposition have been eloquent upon that score. They have charm, learning, and great experience in this body. An effort has really been made—and I make that statement quite sincerely—to make out a case on the constitutionality of the bill which is before the Senate, on some theory that the Senator from Georgia expressed, as he usually does in such cogent and, indeed, vivid words, that we are seeking to force the bill out in an effort to rewrite the Constitution without going through the form of a constitutional amendment.

It is to that subject that I would like to address myself. In the first place, it bears directly upon the issue which is before the Senate, including the issue of cloture. It also bears upon the amendment which my colleague [Mr. KEATING] submitted earlier today as the chosen instrument of those on the civil rights side, in respect of this particular voting matter, to make the bill come to its true compass in constitutional terms, that is, to apply it as well to State elections, for it is the contention of those who I feel are identified with this point of view that the action by the Congress in passing the pending literacy test bill, including the amendment that would extend its provisions to State elections, is an entirely proper exercise of the powers of Congress based upon the three fundamental policies on which it must rest:

First, the fact that there has been actual denial of the right to vote by the misuse of literacy tests in certain of our States;

Second, the impracticality of the case-by-case approach of individual civil suits, or criminal actions under criminal law;

Third, that the Congress has the authority and power to choose the means by which this abuse shall be ended, and that the Congress can choose a means which will give a maximum test for literacy without displacing other tests which individual States may have if people can qualify under them.

It is this basic and fundamental issue to which I should like to address myself.

Let me say first that I must look with some admiration on our southern colleagues in the Senate in their great effort on the question of unconstitutionality, because it is only fair to say, in all honesty, that I have rarely ever seen so many Senators make so much of so little in terms of the constitutionality argument.

Mr. President, the civil rights struggle now being waged on the Senate floor over the literacy test is a historic opportunity for the Senate and the Nation.

As the matter is now before the Senate, much more is at stake than the pending bill itself, because the civil rights groups and others interested in civil rights do not put this bill at the top of their list. They and I believe that there are one or two other bills which are far more important, as is also an Executive order to end discrimination in housing. That, too, is extremely important. So, Mr. President, the pending bill is important, but it is not the most important bill. Nevertheless, the vote that we will take shortly will be a historic vote. The vote will be on the cloture motion, and it will be extremely important because never in the history of Senate rule XXII has cloture been imposed on a civil rights measure, and very rarely have we had cloture imposed on any measure.

So, clearly, it is an effort to redress an evil. Nearly everyone agrees, even the opponents of the proposal agree, I am sure, that every American should have the right to vote. We may have grave differences as to what should be done about it, but certainly, this is such a basic proposition that everyone agrees that something should be done about it, as there should be in terms of jobs and housing. However, the basic right to vote should not be inhibited.

So this will be a crystal-clear test on whether it is possible under cloture to enact a civil rights measure.

The vote will show whether the Senate is able to work its will under rule XXII of the Senate, as the majority leader has so eloquently stated.

Mr. President, the effort of the opponents is nothing more than an effort on the part of a relatively small minority to frustrate the will of Congress, and inhibit and restrict the ability to act by a majority of the Senate, as called for by the Constitution.

Mr. President, it will also be a test of the majority in its ability to run the Senate's business. It is not an idle matter in which the majority leader is now engaged. He is a very able Senator and a distinguished American. He understands only too clearly that if a party is in the majority, it is the job of the majority to get its business done, especially when the President, a member of the same party, has pledged himself to get the job done. If the rules inhibit the majority, then the rules will have to be changed.

Mr. President, let us not forget that we were frustrated at the end of 1961 in our effort to enact even a modest amendment of rule XXII, by the apparent unwillingness of the Senate to do anything about it; also, in all fairness it should be said, by the failure of any real fire to be attracted to it. So, as I say, it will be a test for the majority in the Senate.

It will also be a test for the minority, as the bill before us explicitly is a part of the Republican national platform of 1960. This is a rather unique circumstance. The Republican national platform, in so many words, calls for the enactment of the pending bill. I believe the country has the right to determine to what extent Republicans on my side of the aisle in the Senate will back up that pledge. The Nation will be watching the performance of both parties. That is as it should be, and as it is represented by the sponsorship of the amendment which my colleague from New York [Mr. KEATING] has at the desk, and which was read to the Senate this morning.

The civil rights fight has always been a bipartisan effort. It is one of the ornaments in this fight that both parties have been careful not to seek partisan advantage, and in particular have they sought to avoid the partisan imprint with respect to it.

We have not sought to make a distinction between Republican and Democratic Presidents, although we have called attention to what Presidents have done, but never on a partisan basis; and we have never sought to make a distinction as between Democratic and Republican Senators. We have felt that this type of legislation transcends those lines of division.

So, as I say, the Nation will be watching the performance of both parties.

It is therefore essential that the arguments of the bill's proponents be clearly marshaled, for I am convinced that the bill is a constitutional exercise of the powers of Congress, and should be enacted into law.

As I have said, seldom have so many made so much of so little with respect to constitutional arguments.

I should now like to take these arguments in turn and analyze them.

It has been contended that the pending measure is patently unconstitutional because article I, section 2, and the 17th amendment of the Constitution permit the States to set the qualifications for electors for Members of the U.S. House of Representatives and Senate, respectively. Many cases for this proposition decided by the U.S. Supreme Court are cited in support of that argument. However, what is not noted with respect to those cases is the fact that these same cases also hold that the States cannot set or apply qualifications which are in violation of the 14th, 15th, and 19th amendments to the Constitution. Yet it is exactly the view of the proponents that by the demonstrated abuse of literacy tests, certain States have deprived thousands of Negroes of the right to vote on the ground of color, in violation of the 15th amendment.

Let us understand that, Mr. President. It is argued that the States have the sole right to set the qualifications of voters, but what the proponents fail to note is that inherent in every one of the decisions they cite, and expressed in a decision like that in the Lassiter case, is the assertion of the Supreme Court, in effect, "Yes, the States have this right, provided they do not use that right in violation of other sections of the Constitution."

The bill which is before the Senate is based expressly upon the fact that States are proceeding in violation of the very rights given by the 15th amendment under the Constitution, specifically to Negroes.

Mr. President, as proof of the facts—and facts always precede a discussion of the law—we have a volume entitled "Voting," issued by the U.S. Commission on Civil Rights, an authoritative governmental body. I respectfully submit that if and when the pending bill is passed and becomes law and is tested by the Supreme Court, the Supreme Court will have a right to say, and I believe will say, that an authoritative inquiry such as that conducted by a U.S. commission, subject to appeal to the courts against imposition with respect to searches and seizures, and other practices which the law gives with public hearings and the printed record, together with the opportunity of examination and the opportunity for cross examination, is certainly an adequate factual record upon which Congress may proceed.

The findings in this document, it seems to me, are crystal clear as the basis of congressional action. It is that which is always avoided in this discussion—the fact that a case has been made out for the abuse of the literacy test in State after State, and not just in one State.

For example, the U.S. Civil Rights Commission, under the heading "Findings," at page 135 of this volume, states the following:

> There are reasonable grounds to believe that substantial numbers of Negro citizens—

Note the fact that these are Negro citizens, expressly within the terms of the 15th amendment—

> Negro citizens are, or recently have been, denied the right to vote on grounds of race or color in about 100 counties in 8 Southern States: Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee.
>
> Some denials of the right to vote occur by reason of discriminatory application of laws setting qualifications for voters. Other denials result from arbitrary and discriminatory procedures for the registration of voters; still others occur by reason of threats and intimidation, or the fear of retaliation.

In other words, the finding is that there is a widespread practice extending through a number of States, a practice which Congress is called upon to deal with. That not being enough, the Commission itself recommends the remedy; and the remedy is precisely the bill before us, except for that section of it which deals with those who qualify in the Spanish language because of their schooling in Puerto Rico. Other than that, the Commission's report is precisely, almost word for word, the recommendation which is contained in the bill now before the Senate. That recommendation, let us remember, is approved unanimously by the whole Commission, a Commission which we all know—and it is a matter of which the courts can take judicial—is composed of three members from the North and three from the South. Yet that particular recommendation by those distinguished men, a number of them extremely distinguished lawyers, was unanimous.

One of the items of evidence which is produced in that record—mind you, the hearings are printed; everyone can read them; and the tables of the percentages of registrations are contained in the report in the appendix—one of the items, by way of indication as to the factual basis for the legislation and the needs for it, concerns the findings in one county in Alabama. This is the finding I referred to. It is on page 85 of the Civil Rights Report on Voting:

> The first finding of a pattern or practice under the Civil Rights Act of 1960 came in the case of *United States* v. *State of Alabama*, on March 17, 1961. Like the Raines case before it, the Alabama case involved a massive factual presentation. Over 70 witnesses testified and there were approximately 250 exhibits.

I now read the pertinent paragraph:

> The court pointed out that Macon County has a total population of approximately 26,700 persons, of whom 22,300 are Negroes and 4,400 are white. The county is divided into 10 voting districts or beats. The largest of these, beat 1, contains about 60 percent of the county's population; 75 percent of the population of beat 1 is Negro. The city of Tuskegee is located in beat 1. Less than 10 percent of the Negroes of voting age were registered; virtually all of the voting age white persons in the county were registered.

Then, on page 86 of the report, the following appears:

> Despite the fact that Negro applicants arrived first, the 1960 board "invariably made certain" that white applicants got priority. Because of the time-consuming nature of the qualification tests, Negro applicants were not reached. Assistance was given to white but not to Negro applicants. Negroes were invariably required to copy out a provision of the Constitution and "more often than not" were required to copy in full article II of the U.S. Constitution. On the other hand, white applicants either took no writing test or were permitted to copy shorter provisions of the Constitution. No white applicants were rejected for errors in their application forms, but Negro applicants were rejected because of "formal, technical, and inconsequential errors," despite the fact that white application forms showed the same errors.

The record is replete, both in the oral testimony and in this report, with cumulative evidence of this nature. I respectfully submit that Congress has an absolute right to proceed along this line.

I shall now devote a little attention to the cases; then I shall continue with the remainder of my argument.

As early as 1844, in *Ex parte Yarbrough* (110 U.S. 651, 644), the Supreme Court explicitly so stated in regard to the 15th amendment, which prohibits denial or abridgement of the right to vote "by the United States or by any State on account of race, color, or previous condition of servitude."

Yet that is precisely what is occurring; the denial of the right to vote by reason of race or color in the States to which I have referred.

Section 2 of the 15th amendment authorized Congress to enforce the amendment by appropriate legislation "whenever that is necessary," as the court also stated in Yarbrough. Subsequent decisions of the Supreme Court have rigorously maintained this position, where the Court has found as a fact discrimination on account of race or color in violation of the 15th amendment. (*Gwinn* v. *United States*, 238 U.S. 347 (1915), literacy test; *Smith* v. *Allwright*, 321 U.S. 649 (1944), white primary; *Davis* v. *Schnell*, 81 F. Supp. 872 (S.D. Ala. 1949), aff'd 336 U.S. 933, literacy test, and in *dicta*, where such discrimination has not been charged or found to be the fact; *Lassiter* v. *Northampton Election Board*, 360 U.S. 45, 53 (1959), literacy test. Cf. *Breedlove* v. *Suttles*, 302 U.S. 277, 283 (1937)).

One very clear indication of the situation with respect to the law is found in the Lassister case, which it seems to me is peculiarly in point in this particular situation. I wish to read a quotation from that case:

> Of course, a literacy test, fair on its face, may be employed to pursue that discrimination which the 15th amendment was designed to uproot. No such influence is charged here.

In short, in that case. But the Court clearly contemplated, it seems to me, the possibility of such a case and clearly forecast that an exercise of legislative power in respect of correcting that kind of situation would certainly receive the favor of the Court.

My second argument is that some opponents of the pending bill go so far as to contend that there is no deprivation whatever of the right to vote because of literacy tests. Such an argument will not stand in view of the 1961 Report on Voting, of the U.S. Civil Rights Commission, to which I have referred. Therefore, the question becomes: Is the number of suits which would have to be started in such a situation so great, so cumbersome, or so burdensome as to require general legislation? In that regard, I produce two very important pieces of evidence. The first is the testimony of the Attorney General of the United States himself before both the Senate and House committees, in which he said that this situation, to which I have referred, the situation of discrimination, demands a solution which cannot be provided by lengthy litigation on a piecemeal, county-by-county basis:

> Until there is further action by Congress, thousands of Negro citizens of this country will continue to be deprived of their right to vote.

Also, we have a most interesting chronology in one case, entitled "United States against Lynn." It is a case against the registrar in Forrest County, Miss., based upon just the state of facts which I have described, namely, the discriminatory application of literacy tests. The case was begun by none other than the Attorney General of the United States in August 1960. That was almost 2 years ago. After going through the courts, including an appeal to the Circuit Court of Appeals for the Fifth Circuit, the case is now, at the end of April, which is the last time we have a report on it in 1962, in the following situation: The registrar still persists in his discriminatory use of literacy tests, and the Federal Government has charged him with contempt for violation of the order of the circuit court of appeals. That is the present posture of the case. It has advanced no further since then.

One of the allegations of contempt is that the registrar rejected, for an alleged failure to read an interpretation of the State constitution, 57 graduates, among them one who had been awarded a Na-

tional Science Foundation scholarship to Cornell. According to that ruling, one has to be a super Ph. D., not merely a Ph. D., in order to vote in any of those areas.

It seems to me that it is very clear that when the Congress has a factual basis for acting because individual litigation becomes practically impossible in terms of redressing grievous wrongs, Congress has the right to legislate in a situation of that nature. Even the most ardent opponent of the proposed legislation, the distinguished senior Senator from Georgia [Mr. RUSSELL], referred to this fact. I refer to his interesting speech on April 24, 1962, in which he said:

> If voting rights are withheld and denied, it is a criminal offense. We know that the Department of Justice of the United States has a vast horde of lawyers at its disposal. My latest information is that there are almost 2,000 such lawyers in the employ of the Justice Department and are supported by the taxpayers.

Mr. President, I should like to hear the outcry if 2,000 lawyers from the Department of Justice were sent into the 100 counties in the South where this authoritative report of the U.S. Commission on Civil Rights says there are discriminatory applications of literacy tests, and thereby denials of the right to vote. The roof of this Chamber, which has heard much oratory, would, under those circumstances, really quiver and shake. Talk about filibusters: there would really be a man-sized one if anything like that should happen.

Yet it is contended that hundreds of Government lawyers can be used to try these particular cases, which often last for months, and, indeed, for years—for let us remember that in each of the cases the Federal Government is opposed by all the power of a State, and the resources of the State are employed in order to provide its defense in those actions, and in each of these situations the entire State is dealt with.

Therefore, it seems to me that in the interest of elemental public order and the comity between the Federal Government and the State governments, when the Federal Government has this constitutional right—and I certainly believe it has in this instance—it should be exercised in this situation.

It is said that the existing provisions of the Civil Rights Acts of 1957 and 1960 are adequate to deal with the abuses. The answer is that, despite 125 enforcement activities in approximately 100 counties, including suits filed, voting records under inspection, and FBI investigations, there are still either no Negro voters or a miniscule percentage of them registered in many counties of the South.

The tables for the various counties in the Southern States are available as an appendix to the volume prepared by the U.S. Civil Rights Commission. It would be a waste of funds to go to the expense of printing all the tables in the RECORD, but I shall cite a few of the overall figures which are illuminating in connection with this situation.

For instance, let us consider the entire State of Mississippi—not just one part of it, but the entire State—and let us see what the tabulations show. Table 8, among the charts, shows that of the voting-age population of Negroes in Mississippi, 6.2 percent are registered to vote; and that of the voting-age population of the white citizens of Mississippi, approximately 40 percent are registered to vote. Later, I shall supply the exact figure in that connection.

The table shows that in Alabama, 63.6 percent of the white citizens of voting age are registered to vote, whereas only 13.7 percent of the Negro citizens of voting age are registered to vote—viewing the matter on a statewide basis.

Table 10, as prepared by the Civil Rights Commission, gives a sampling for South Carolina, by referring to four counties; and it shows that 4.7 percent of the Negro citizens in those four counties in South Carolina are registered to vote, as compared with 84.5 percent of the white citizens in those counties who are registered to vote.

Mr. President, again I refer to the conclusion reached by the U.S. Civil Rights Commission—namely, that in 100 counties in 8 southern States, stretching from the Atlantic to the Mississippi, there is outright disenfranchisement in connection with denial of the right to vote by reason of the discriminatory application of laws setting the qualifications for voting.

The reason for this is clear: The test of "understanding" or "comprehension" is so subjective that it is an overwhelming task to present such a case with formal legal proof. One such case, in Montgomery County, Ala., took a week to try, and required over 160 witnesses for both sides. The Government was required to have a staff of 5 analyze 36,000 voter registration applications, over a period of 3 months. It had three to five lawyers working on the trial. Even if the Government succeeds in satisfying the court that this subjective standard has been abused, how can the resulting injunctive order be enforced? To establish contempt of court, the Government would again have to cope with the vague, elusive standard of "understanding" or "comprehension." In another case, in Forrest County, Miss., the Attorney General has been proceeding against the voting registrar since August 1960; and at this point, despite diligent efforts at every stage, he is still attempting to prosecute a contempt action against the registrar.

I have referred to that case as being that of United States against Lynd. I gave its history a minute ago. The registrar is now charged with violating a court of appeals order by refusing to register every Negro applicant, many for "illiteracy," including five college graduates, one of whom had been awarded a National Science Foundation scholarship at Cornell. Finally, it must be noted that these suits account for only 2 of the 67 counties in that State alone, none of the remainder of which will consider the decrees in those cases as binding upon themselves, as we know only too well.

Obviously, Mr. President, where such legislation is constitutional—and I strongly contend that it is constitutional in this case—we strongly contend that Congress may use a proper measure of power in order to effect some standard basis by which such protracted legislation may be avoided, in order that a constitutional result may be achieved. Let us remember that the constitutional result to be achieved is assurance of the right to vote without discrimination against Negroes, as guaranteed by the 15th amendment. Let us never forget that.

To this, the opponents of this bill reply by pointing to the more than 3,000 counties around the country in which no discrimination in the application of literacy tests is alleged, but to which the pending measure would apply. In other words, it is argued that the bill would apply throughout the country, whereas it is alleged that the abuse referred to exists in only a certain number of counties. However, it has often been held that the Congress has a wide choice of means for implementing its constitutional power to safeguard the right to vote. (*United States* v. *Classic*, 313 U.S. 299, 320 (1941) and cases therein cited.) Similar arguments were made against the Civil Rights Act of 1957 and 1960, to which the opponents themselves now allude with satisfaction.

Let us remember that as to the choice of means, similar arguments were made against the Civil Rights Acts of 1957 and 1960. Yet the opponents of the pending measure now refer to those statutes as proper ones, whereas at the time when they were under consideration, the same persons argued as heatedly that those measures would destroy the Constitution and the rights of the State governments.

Congress has often applied a general rule throughout the Nation, although the need was only local. A prime example is the Landrum-Griffin Act, in which Congress found abuses in a few unions, and applied safeguards to all. Finding a voting requirement beyond certain limitations to be excessive and unreasonable and establishing a maximum literacy test for States which choose to use such tests is an equally legitimate method by which to eliminate the abuses which have been documented in at least eight States.

I have referred to them by quoting from the Commission's report.

Now, Mr. President, let us remember, too, that this statute, if it passes, will not upset the normal literacy test procedures of all our States. They go ahead and do business just the same. It will only set a standard where that standard must be repaired to if any person feels he is being discriminated against. There he may use a certificate. In New York State we call for an eighth grade education. The Federal Government will reduce that requirement to a sixth grade certificate, if this bill passes.

An important thing to remember in that regard is that the Supreme Court of the United States will have to find that it is a reasonable test, a reasonable means for ascertaining the capability of a voter to vote. It is interesting that in all this debate I have not heard questioned the validity of a sixth grade certificate in terms of qualifying a person to understand what he is voting for. So I do not think there is much question

about the fact that the Supreme Court will hold it to be a perfectly reasonable test.

I revert to the first point I made, the critical need of a cloture vote limiting debate on the amendment. In my opinion, it is going to be one of the most important votes on civil rights ever cast in the history of civil rights, and it is also *going to be one* of the most important votes of any kind cast in this Congress. Let us be very clear on that.

If the cloture motion fails, despite the fact that a majority of the Senate supports it, and if it ultimately fails on the second vote, and this bill has to be taken down, then we shall have had a clear demonstration, for all the world to see, that the will of the majority, even after reasonable debate, can be defied by a minority and a filibuster. It will show that the failure to get the Senate rules amended in January, 1961, and again in *September*, when the issue was shelved, was a grave error; and it will provide a powerful argument for amending the rules when there is another opportunity at the opening of a new session in January, 1963.

If, happily, the cloture motion should be successful, then it also would be historical, because it would demonstrate that, on the Democratic and Republican sides, there is enough determination and enough fidelity to the pledges of our respective parties and to the crying injustices in the country to effect cloture, which many Senators are not happy about, in order to bring about elemental legislation.

If this happens, we shall have a historic milestone in terms of the balance of power; and the power of a minority to frustrate, not only in civil rights, and not only by filibuster, but merely by threat of one in many issues, will finally have been broken.

I am not for limiting debate unreasonably or for adopting rules used in the other body. The Senator from Illinois [Mr. DOUGLAS] and I, in all our efforts, have not suggested that. The most we have suggested is a limitation of 30 days of debate, not even under germaneness rules, and that then cloture could be brought about by a majority of 51 Senators. We have been reasonable in our approach, and understandably, because this is a great deliberative body, but it has come to a historical turning point in these dangerous days. We are either going to be able to do that or we are going to show demonstrably that we cannot go forward as a body which is ruled by a minority. I hope that will not happen. I do not want it as an argument for January 1963. I would rather we would be successful on a cloture motion. But if we are not, I think the country will have clearly written before it one of the major issues of the political campaign of 1962.

I thank the Senator, and I yield the floor.

Mr. HUMPHREY. Mr. President, I join the debate today on the amendment in the nature of a substitute which has been offered by the majority leader and the minority leader.

During the past 2 weeks of this debate on voting rights legislation, almost everything that can be said on both sides of this issue has already been said. A year from now much of our rhetoric may be forgotten, but the testimony which has been printed in this volume of hearings on S. 480, S. 2750, and S. 2979, by the Subcommittee on Constitutional Rights of the Committee on the Judiciary of the Senate, reveals certain information that cannot be forgotten.

I will find it hard to blot out of my mind the recorded testimony that reveals the image of the Negro citizen with a graduate degree who had to copy page after page of a State constitution on five separate occasions, only to be rejected each time because she omitted a word or some of the punctuation.

I will not forget the case of the Negro applicant who failed to explain "due process of law" to the satisfaction of a registrar who not only had no legal training, but who had less formal education than many of the applicants.

I know that I will remember the Negro applicant who was rejected for misspellings by a registrar who misspelled the word misspellings.

These are a few of the human situations embodied in the Attorney General's testimony before the Senate Subcommittee on Constitutional Rights that there are 16 counties in which Negroes of voting age are the majority but where no Negro is registered to vote, and 49 counties in which Negroes are the majority and less than 5 percent of these eligible are registered.

These are a few of the injustices behind the Civil Rights Commission's dry statistics that there are 129 counties in 10 States where less than 10 percent of the eligible Negro citizens are registered.

So it seems to me, Mr. President, that there can be no real argument about the need for legislation. That much is conceded. There does not have to be a situation in which citizens in all of the counties, or in half, or even in one-third of the counties, are being denied their rights in order to have a need for legislation. We pass bills here to remedy wrongs against a single person and wrongs which are much less fundamental than the denial of a person's right to choose his own government.

I would call to the attention of my colleagues the Senate Calendar. On that calendar are a number of what we call private bills. Those private bills frequently refer to claims of citizens against the Government of the United States. Members of the Senate and of the House of Representatives take justifiable pride in righting the wrongs, in seeing to it that claims of citizens against this great Government of ours are paid, or that there is justice done with respect to the claims.

Now Mr. President, I am not a lawyer so I can not enter the scholarly debate about the constitutionality of this bill on the same terms as some of my distinguished colleagues. But I have read the words of the 15th amendment "that the right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude," and that "Congress shall have power to enforce this article by appropriate legislation."

This proposed legislation does not impair the power of States to impose literacy requirements, but merely substitutes an objective standard for loose rules which have been discriminatively applied. I want to make it quite clear that the Constitution establishes the unequivocal right of the States to set standards for voting. That same Constitution provides that those rights cannot be applied in a discriminatory manner. In other words, a right for one or a standard for one person must be applied equally to another.

If this pending measure is not "appropriate legislation," then I am not sure how the 15th amendment can be effectively enforced. And I might add that I have some pretty fair constitutional lawyers on my side—among them Dean Griswold of the Harvard Law School, a member of the Civil Rights Commission.

Nor am I impressed with the argument that this proposal would demean the value of the vote or adversely affect the quality of government in the United States. I would even venture to say that there may be illiterate persons in this Nation better able to judge candidates and the issues than some who have mastered the arts of reading and writing. In fact, there are 30 States in this Nation—my own among them—which do not require literacy at all as a prerequisite for voting, and I would be hard put to say that these States are not as wisely governed as the 20 which do impose literacy requirements. The Mansfield-Dirksen amendment would not abolish literacy as a requirement. It merely provides that literacy tests must be applied equally, without discrimination. The Mansfield-Dirksen amendment states that any person who has completed six primary grades in public school or in any accredited private school cannot reasonably be denied the right to vote on the grounds of illiteracy or lack of sufficient education. And I find that a perfectly reasonable factual basis on which to legislate.

Mr. President, let us keep this proposed legislation in perspective. It is only a small step toward assuring Americans their constitutional rights. It will not be of any direct help to the millions of Negro children who are being denied their constitutional rights by being kept in segregated schools or who are being denied other privileges under the law. It will not help the millions of nonwhite Americans who cannot buy or rent a home on the same terms as whites. It will not break down the barriers of discrimination in employment which keep so many Americans in impoverished circumstances.

All the Mansfield-Dirksen amendment will do is to take a useful, moderate, reasonable, and effective step toward assuring all Americans the right to vote. This is a promise we made to ourselves almost 100 years ago in the 15th amendment. Let us take a step to keep this promise today.

I should like, if I may, to put the matters we have been discussing in a wider context.

Last month we had a visit from Prime Minister Macmillan of Britain. I vividly recall how, 2 years ago, he spoke to the Parliament of the Union of South Africa. He warned them that a "wind of change" was blowing throughout their continent.

That wind of change is blowing not only in Africa, but also throughout the world. Hundreds of millions of people are attaining freedom and its most essential right—the right to vote.

There have been times in the past when, looking at our actions in the United Nations, I wondered whether we knew which way the wind was blowing.

I think that we do now. In the United Nations, we are voting with freedom and the future, not with colonialism and the past.

We have given pain to some of our oldest and best friends because of the votes. That could not be helped. We were on the side of what was right, what was just. We were on the side of what was inevitable, a much-needed change.

When Mr. Macmillan spoke to the South Africans, he did not expect that his words woud give them any pleasure, and they did not.

In fact, he was sharply criticized, but he spoke courageously. He spoke as a statesman. He spoke properly.

Our European friends, however, do from time to time make one point that sticks, and hurts, particularly as we cast our votes in the United Nations for freedom and against colonialism. They say we should apply the same standard to ourselves that we do to them. They say, and rightly, that we should practice at home what we preach abroad. They say we should practice what we say at the United Nations and the way we vote at the United Nations.

After all, the wind of change, the freedom wind, does not stop at the boundaries of the United States. It does not divide and flow around us, leaving us becalmed in the midst of the hurricane.

People are speaking up for their rights, here at home as well as in Africa, in Latin America, in Asia, and everywhere else.

They are demanding the right to vote.

I am happy to say that people behind the Iron Curtain are speaking up for their rights. The other day I read an article which said that students in universities in Czechoslovakia had spoken out against the totalitarian regime. Workers in Spain have been striking for better benefits: better wages and better living conditions. All over the world people are demanding that they be treated as human beings, with the qualities of dignity and decency to which humankind is entitled.

I have been saddened to read, in the report of the U.S. Commission on Civil Rights, of the petty and pathetic stratagems which have been used to keep Americans from gaining, or even holding, the right to vote.

Registrars have vanished. Tricks have been played with cards. Even passages from the Constitution, the hallowed charter of our liberties, have been used in a kind of "heads I win, tails you lose" game.

We are seeking to do away with only one of these petty tricks, a so-called literacy test administered in such a way that any of us here in this body could easily fail it, but for the color of our skin.

It is a small thing we are seeking to do, a first step in the right direction.

It will still require determination, persistence—yes, and often, in some places, courage—to register to vote. But it will be a little harder to say "no" and to make it stick.

We have the opportunity to show that we know which way the wind is blowing, and that it is blowing within our own beloved country.

Democracy is under attack today, every hour of the day and night. A world of coercion, of tyranny, confronts our world of free choice.

But democracy can be sapped from within as well as besieged from without.

Democracy is an end, or objective, but it is also a means. It must work as a means by which people can meet their problems, or its survival as an end is less than certain.

I would like to meet Rev. John Henry Scott of East Carroll Parish in Louisiana and talk with him about democracy. On page 51 of the Commission's report on voting it says that Reverend Scott "noticed the streets where they vote; they were fixed * * * I noticed the people that vote, the officers of the law respected them and treated them different from the people that didn't vote. * * *"

I do not know whether Reverend Scott would have passed the literacy test we are talking about today; he did not get that far.

Although he had lived in the same place all his life, he was not able to find two registered voters to vouch for his existence. He had lived in one area all of his life, yet could not find two registered voters to vouch that he was alive.

Yes, he was "the invisible man"—and it was not science fiction, but plain, hard, disagreeable fact.

These facts were testified to before the Civil Rights Commission under oath. That is a body constituted under law passed by the Congress.

I think Reverend Scott had a good down-to-earth grasp of the meaning of democracy, and why he wanted it. To him, it meant both a better life materially, and also an ampler measure of human dignity.

We have the opportunity today to show that democracy can work, right within this Chamber. The issue before us has been thoroughly explored, investigated, debated, and dissected.

We must—unless there is something self-destructive, something almost suicidal about the rules under which we are functioning—be able to vote on this issue.

The members of the South African Parliament listened to Prime Minister Macmillan and then proceeded to ignore his solemn warning, with results which are already tragic and which may, God forbid, become even more tragic.

The preacher and poet John Donne once said: "Any man's death diminishes me, because I am involved in Mankinde; And therefore never send to ask for whom the bell tolls; it tolls for thee."

Liberty is just as indivisible, democracy is just as indivisible. If the bell tolls against democracy in any corner of our country; if citizens are denied the vote without just cause, it tolls for us here in Washington, in our respective States, and here in the Chamber of the Senate, too.

Before closing, I wish to associate myself with the remarks made yesterday by our distinguished majority leader in regard to the Senate rules. If the Senate is unsuccessful in its efforts to obtain a vote on the moderate, reasonable, limited proposal known as the literacy test proposal, it will be manifestly and crystal clear that the rules of the Senate must be changed so that the Senate may exercise its will and its purpose to carry out the mandate of the Constitution, namely, to do the business of Government.

No one objects to full debate on the issues which come before this body. I would be the first to protest any effort to curtail full and complete discussion. But there comes a time when the Senate does have the right to bring the issue before it to a head and to vote it up or down. I do not believe that a minority of the Senate has the right to prevent the Senate from resolving the issue before it.

I wish to make it clear that the resolution of that issue may be contrary to what I believe may be right and contrary to my vote. But I, as a Member of the Senate, sent here by a sovereign State, believe that I have an obligation to fullfill the mandate of the Constitution, which requires that there shall be a majority for a quorum, and that a quorum is capable of doing the business of the Senate.

Rule XXII has been called the graveyard of civil rights. Those who have opposed any liberalization in rule XXII have denied that the present rule makes it impossible for the Senate to act.

The main argument in behalf of rule XXII is that it is still an effective rule. It permits the Senate to act. Those who speak up for rule XXII say that the rule does not deny the Senate the opportunity to act, but rather permits the Senate to act with due process and due consideration.

I sincerely hope that our vote will prove that rule XXII can work. We shall shortly have the opportunity to test the effect of rule XXII. If it does not work, if the cloture motion fails, and the pending literacy test proposal must be dropped for the present session of the Congress, it will be abundantly clear that the rule needs changing.

I repeat that the proposal before the Senate would do justice to the 15th amendment to the Constitution, which requires the Congress to take appropriate steps through legislation to enforce the mandate of the 15th amendment. If the present modest proposal of a literacy test is to be pushed into the graveyard of rule XXII obstruction, I say that the evidence is abundantly clear that the rules must be changed.

I think the record is equally clear that this Senator has urged for years that the rules be changed so that the Senate

can legislate, which is its primary duty. The Senate is not merely a public forum; it is a legislative body, and to legislate means that we must debate. But to legislate means also to decide, to make decisions.

If that be the case, if the vote on cloture should fail, I renew my pledge to work untiringly with our majority leader to see that rule XXII is changed in 1963.

I see in the Chamber my friend the minority whip, the Senator from California [Mr. KUCHEL]. For many years he and I, one a Republican and the other a Democrat, have urged liberalizing rule XXII, without any regard to partisanship. We have worked together to get what we have believed would be a sensible liberalization and modernization of rule XXII so that after many days of debate, a majority of the Senate would be able to bring the debate to a close and permit Senators to vote upon the substance of the issue before the Senate.

Whether cloture could be effected by majority vote, or whether there would be some modification of such a proposal which would liberalize the present rule, I repeat that if the vote tomorrow on cloture fails, there will be but one course for this Senator and, I hope, for a vast majority of other Senators to follow. That course would reopen the issue of rule XXII in the beginning of the 88th Congress, 1963—and we would see to it that the rule is modified, liberalized and modernized.

Mr. KUCHEL. Mr. President, will the Senator yield?

Mr. HUMPHREY. I yield.

Mr. KUCHEL. The Senator is exactly correct. If the RECORD discloses, as I am sure it will, not only a great majority of Senators prepared to vote in favor of the pending proposed legislation, but also the shameful fact that those Senators will not be given an opportunity so to vote, I prophesy that early in the next session of the Congress there will be adequate votes at long last to change the rules so that the majority of Senators can, after reasonable debate, exercise their judgment to vote in favor of or in opposition to whatever type of proposed legislation is pending in the Senate. I completely agree with my able friend that in the argument he makes there is no political distinction between us.

Mr. HUMPHREY. I thank the Senator. He has always approached problems of this nature in what I consider to be an objective and nonpartisan manner. On the subject of the rules of the Senate, there is no room for partisanship. The purpose of the rules is to permit the Senate to conduct the public business, insofar as we are empowered to do so, under the Constitution.

Mr. President, I pledge myself to work untiringly with our majority leader and with other Members of the Senate to see that rule XXII is changed in 1963. I am confident that our efforts will prove successful.

In conclusion, I ask unanimous consent that editorials from the New York Times and the Washington Post in support of the literacy test bill, as well as a telegram in support of this legislation from the legislative director of the AFL–CIO, Andrew J. Biemiller, be printed at this point in the RECORD.

There being no objection, the editorials and telegrams were ordered to be printed in the RECORD, as follows:

[From the New York Times, May 8, 1962]

THE LITERACY TEST BILL

For more than 2 weeks a group of Southern Senators have been holding up a vote on the administration's literacy test bill. If this bill were to pass, it would forbid any State to discriminate against Negroes or anybody else in setting literacy standards for voting in Federal elections. This filibuster, like all other filibusters in the Senate, is intended to prevent a Senate majority from having its way. The bill's opponents are implicitly conceding that they do not care for majority rule.

How large a majority would support the bill if it were brought to a vote is uncertain. Supporters of the measure were claiming 54 votes at the beginning of the week and some of them thought, as Senator KEATING said, that the bill would succeed "if the full weight of the President were placed behind this cause, as it has been on others."

However, because of the Senate's traditional solicitude for its own minorities, a two-thirds vote is required for closure of debate—or the approval of 67 Senators when the whole Senate is present and voting. Yesterday the Senate leaders filed a closure motion, which will be taken to a vote on Wednesday. It is not expected to pass, but the Democratic leader, Senator MANSFIELD, is not yet ready to give up.

Nor should he and his colleagues who support the bill give up. The issue is as clear as it was nearly a century ago when the 15th amendment stipulated that the right to vote should not be "denied or abridged" on account of race or color. Literacy tests in the South have notoriously been used to disfranchise the Negro. It is time to abate this abuse.

This is a National and not a State issue. For the President, the Vice President, and the Members of both Houses of Congress act for all of us and should not be chosen by a discriminatory vote. This is a principle that no amount of sophistry can change.

[From the Washington Post, May 7, 1962]

TEST ON VOTING RIGHTS

While the debate over voting rights drones on in the Senate, the Department of Justice has moved against a registrar in Forrest County, Mississippi, for refusing to register Negro applicants despite a court order forbidding discrimination. This is a very promising effort to enforce the Civil Rights Acts of 1957 and 1960. If this venture for the opening of voting booths to Negro citizens had succeeded sooner there would be less interest in the controversial bill to prescribe that a sixth grade education will satisfy State literacy requirements for voting.

It is unfortunate that the Department's request that the offending Mississippi registrar be held in contempt of court was rejected by the district court. An appeal has been filed, however, in the Fifth Circuit Court of Appeals, and if it should fail there it will doubtless be taken to the Supreme Court. The case for contempt appears to be strong, since the official refused to register at least 19 Negro applicants, including a National Science Foundation fellow and three college graduates. If the registrar persists in his refusal to do his duty under the law, he can be kept in Federal custody until he complies with the orders of the courts.

The 1960 act also provides for bypassing recalcitrant State voting registrars if that should become necessary. Where a pattern of racial discrimination is found, the court can appoint a voting referee who could determine whether applicants are qualified to register and then provide them with voting certificates. This system created only 2 years ago ought to be tested to the full extent of the powers it provides.

MAY 8, 1962.

Senator HUBERT H. HUMPHREY,
Washington, D.C.:

AFL–CIO strongly supports passage of Mansfield-Dirksen bill providing that completion of six grades of formal education shall be deemed to satisfy State literacy tests as qualifications for voting in Federal primaries and elections. Such legislation is urgently nedeed to prevent discriminatory denial of the right to vote to Negroes in violation of guarantees of such right contained in the 14th and 15th amendments to U.S. Constitution. Of utmost importance Senate have opportunity to vote upon and pass this necessary measure. We especially urge you to vote for cloture and against any motion to table the literacy test bill.

ANDREW J. BIEMILLER,
Director, Department of Legislation, AFL–CIO.

YOUTH'S OTHER CORPS

Mr. HUMPHREY. Mr. President, the Washington Post recently expressed in its editorial comments support for prompt passage by the Congress of the Youth Conservation Corps bills which have been reported by both the House and Senate committees.

As the Senate sponsor of the Youth Conservation Corps proposal, I am hopeful that this legislation will be acted upon favorably before we adjourn. In my opinion, it would be a shame if this legislation which would help many young men and also be of such benefit for our conservation program in our State and national parks should be further postponed. I hope that this will not be the case.

I ask unanimous consent that the editorial from the Washington Post of April 28, 1962, be printed at this point in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

YOUTH'S OTHER CORPS

The overwhelming bipartisan support in Congress for expanding the Peace Corps is the surest measure of the broad acceptance of an idea that was once regarded as a dangerous novelty. The applause for the Peace Corps ought to encourage Congress to approve the parallel proposal for a Youth Conservation Corps now sequestered in the House Rules Committee. This legislation would create a 12,000-member corps similar to the CCC of New Deal days and would give youngsters between the ages of 16 and 22 a chance to work in useful public projects such as reforestation at pay of $70 a month.

Comparable legislation before the Senate calls for a larger corps of 150,000 but once the House has approved its version a compromise can surely be worked out. One interesting provision of the House bill would also establish a "Home Town Peace Corps" of 25,000 in which youngsters could work on local public projects, living at home and earning up to $20 a week.

Passage of the legislation would enable Congress to give thousands of American youngsters a chance to make a contribution to their community and country—to do something for others as well as themselves. We can think of few more appealing ways of providing an outlet for the energies of youth, especially of adolescents who may be

restless, rootless, and jobless. While no corps can pretend to offer a cure to juvenile delinquency, the lack of affirmative programs for jobless youths is plainly part of the problem.

Significantly, the District Urban Service Corps has been a success in its first year of operation. This privately supported local program now has about 150 volunteer workers and will need 4 or 5 times as many to carry out its task of helping needy children. This small but useful corps has served as a pilot project and provides heartening proof that the desire to give is strong in a society where so much stress is placed on the delights of get.

COMMUNICATION FROM THE SECRET ARMY ORGANIZATION

Mr. HUMPHREY. Mr. President, I had a most unusual experience the other day in receiving a letter on which I wish to make a very brief comment.

Like many or all of my colleagues I have just received a communication from a group whose very name conjures up a picture of terror, violence, and brutal inhumanity. I am referring to the Secret Army Organization, which even as I speak is trying to provoke civil war in Algeria and to wreck the painstakingly negotiated cease-fire between France and the provisional Algerian Government.

Mr. President, the Secret Army Organization—which I shall refer to henceforth by its French initials, OAS, but not to be confused with what we call the Organization of American States of the pan-American area—had the insolence to write me that it is "completely devoted to the ideals and to the goals" of the Atlantic Convention of NATO nations, which met in Paris this January. As my colleagues will recall, the Atlantic Convention met under semiofficial auspices, and its chairman and guiding spirit was our distinguished former Secretary of State, Mr. Christian Herter. How, one might ask, could an underground organization such as the OAS have anything in common with the Atlantic Convention which represents the finest in the European and American tradition?

The OAS, Mr. President, claims that the "bloody struggle" in Algeria involves not only the vital interests of "Algerian Frenchmen," as they put it, but in the end envisages the overthrow of the Fifth Republic. In the final stage of this struggle, says the OAS, there will emerge a government consisting of "the healthy forces in France which will assure France a happy future and will give the Atlantic allies the certainty of a monolithic unity." The OAS indentifies itself with an "Atlantic culture" whose struggle against communism is the same as the anti-Moslem struggle in Algiers and Oran and the same as the mutiny against General De Gaulle, who is accused of treason.

Mr. President, whenever I read the term "monolithic unity," I become suspicious. People who talk in terms of monolithic unity generally have one-way minds. Generally they have a concept of unity which is based on the unity of compulsion, of coercion. Monolithic unity is not the pattern of Atlantic unity.

Mr. President, as a member of the Senate Committee on Foreign Relations and as a signer of the original "Declaration of Atlantic Unity" in July of 1961, I have only one reason to give this arrogant document the dignity of a public reference. And that is to refute the claim that the assassins of the OAS have anything in common with the spirit motivating the architects of Atlantic unity.

Mr. President, every morning when I read in the newspaper what the Secret Army Organization has been doing in Algeria, it makes me almost ashamed to be a human being. The beastlike actions and the incredible inhumanity of this organization is an insult to God's finest creation, man himself.

When I receive a letter suggesting that this organization has something in common with Atlantic unity, it is time, even as one who has obviously no control over an organization in a country as far away as Algeria or France, to speak up and to speak out against the incredible, inhuman activities of the members of that organization, which has shot children in the streets, patients in hospitals, which has acted with complete reckless abandon, and has murdered and pillaged and burned and injured and destroyed people and property.

Beyond the shadow of a doubt, some of our more gullible citizens will accept the claims of the OAS at face value and will welcome these blood-stained cowards as comrades in the fight against communism. But let me say that I am not one of them. The United States could never take part in an Atlantic cultural clique which trampled on the legitimate rights of non-European peoples. Atlantic Community is not a racist concept. It has nothing in common with neo-Fascist or neo-Nazi movements. It has no room for gangsters or for underground insurgents against governments freely chosen by the citizens of a great nation. Least of all can it speak a common language with an organization which openly proclaims that it "rejects the results of the referendum" in which the French people affirmed their support of the Algerian cease-fire.

I digress to pay tribute to Gen. Charles de Gaulle, who has demonstrated qualities of leadership and courage which have commanded the admiration and respect of people throughout the world. I also commend the people of France, who have suffered through many years of agony because of the terrible situation which has existed in Algeria and in other parts of the world. These people have given President de Gaulle a vote of confidence. They have asked for peace, they have asked for a settlement, and they have joined with Gen. Charles de Gaulle in seeking independence, with honor and with dignity, for the people of Algeria.

Consequently, Mr. President, whenever the OAS talks about its devotion to the idea of U.S. association with the Common Market, of its loyalty to NATO, or of its desire for "Atlantic cultural institutions," all I can think of are the groans of the dying and bereaved Moslems who have learned the meaning of OAS culture.

All members of the Christian community should bow their heads in shame for what has been done in the name of Christian civilization to the Moslem people in Algeria.

It is farcical for the OAS, its leaders imprisoned and under sentence of death, to claim that they are more European than the leader whom they helped to power in 1958. To be sure, President de Gaulle's "Europe of Fatherlands" may not appeal to the smaller or weaker members of the Atlantic Community or even to ourselves. But President de Gaulle is nevertheless a great European whose vision extends beyond the borders of his own country.

He is a great patriot. He is a great believer in freedom. He sees that there is no lasting future for a Europe which refuses to cement its ties with Africa and Asia. He has forged a generous and fruitful association with the former French colonies in Africa, now independent nations in their own right. An organization which attempts to frustrate the culmination of this policy in Algeria cannot rightfully call itself European. It cannot rightfully say that it is in step or in tune with so-called Atlantic unity.

Mr. President, I feel sorry for the self-deluded men who make up the Secret Army Organization. In their frustration and bewilderment at a seemingly unending series of French military reverses since World War II they have created a never-never land of their own. They have lost touch with reality.

Regretfully, there are other people in the world who have not as yet indulged in such delusions, but whose words bespeak them, and who have also lost touch with the realities of the world, and are also victims of frustration. They simply are the victims of their own incapacity to endure sacrifices and travail and hardship.

Every bomb or boobytrap that explodes in Algiers or Oran removes them one step further from reality. They cannot buy their way back into civilization by paying lipservice to the noble ideal of Atlantic Community.

As one of the signers of the Atlantic Unity Convention, I take the liberty of rejecting any possible association or affiliation with these men who call themselves brave men but who are in fact moral cowards and have become assassins and political derelicts and delinquents, and who ought not to receive any respect from any peace-loving people in any part of the world.

JAMES M. NORMAN—LITERACY TEST FOR VOTING

The Senate resumed the consideration of the bill (H.R. 1361) for the relief of James M. Norman.

Mr. KUCHEL. Mr. President, when my political party, the Republican Party, met in the city of Chicago, in 1960, at its national political convention, it made a series of promises to the American people. One of them was a specific commitment with respect to voter legislation. I read as follows:

Legislation to provide that the completion of six primary grades in a State accredited

school is conclusive evidence of literacy for voting purposes.

That was an honorable pledge to the Nation.

When the other great political party, the Democratic Party, met in the city of Los Angeles that same year, its representatives took similar action and promised the American people:

We will support whatever action is necessary to eliminate literacy tests and the payment of poll taxes as requirements for voting.

That, too, was an honorable pledge to the Nation.

The following January, when the new Congress convened, I joined a number of Senators on both sides of the aisle in sponsoring legislation to carry out that bipartisan commitment. A bill, S. 480, was introduced by us in the Senate on January 17, 1961.

Mr. President, I ask that the text of S. 480 be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. KUCHEL. Mr. President, S. 480 was referred to the Committee on the Judiciary; and there it has lain these 16 months. It will never be reported to the Senate. This year, our Republican leader, the distinguished junior Senator from Illinois [Mr. DIRKSEN], and the Democratic leader, the distinguished senior Senator from Montana [Mr. MANSFIELD], joined in sponsoring the same kind of proposed legislation. The bill was referred to the Committee on the Judiciary, although some of us objected to that action, contending that the bill would have precisely the same ugly fate as our bill introduced a year earlier, and that, therefore, the new bill should be referred to another committee, with equal jurisdiction over the subject matter, and with a fair chance of consideration. Nevertheless, the bill was referred to the Committee on the Judiciary, but a commitment was made, in honor and in good faith, by the leadership on both sides of the aisle that the Senate would be given an opportunity to vote on this specific issue. That opportunity is now before the Senate.

IS THERE A NEED?

It may be asked: Is there a need for this kind of legislation? The record discloses an unequivocal affirmative answer. It will be recalled that during the tenure of Dwight D. Eisenhower, the President of the United States appointed a commission of most distinguished Americans, from both the North and the South, constituting them the U.S. Commission on Civil Rights.

The Chairman of that Commission was and is John A. Hannah, president of Michigan State University. Its present membership includes Robert G. Storey, former dean of Southern Methodist University Law School, who serves as vice chairman of the Commission; Erwin N. Griswold; Father Theodore M. Hesburgh; Robert S. Rankin; and Spottswood W. Robinson III.

Father Hesburgh is a distinguished Roman Catholic priest and an outstanding American educator. In February 1960, commenting on some individuals who were denied their right to vote, although they were qualified to vote, Father Hesburgh said:

Some were veterans with long months of oversea duty and decorations for valor in service. Some of the people were ministers. Some of them were college teachers. Some of them were lawyers, doctors. All of them were taxpayers. Some were mothers of families who were hard pressed to tell their children what it is to be a good American citizen when they could not vote themselves. All of them were decent, intelligent American people, and yet they could not cast their ballots for the President of the United States. Some had gone through incredible hardships in attempting to register and had been subjected to incredible indignities. I don't know if any of you in this room have had to go through this experience, but vicariously we had to go through it in listening to their tales. They would go down to the courthouse and instead of going in where the white people registered, they would have to go to a room in the back where they would stand in line from 6 in the morning until 2 in the afternoon, since only two were let in at a time. Then people with Ph. D.'s and the master's degrees and high intelligence would sit down and copy like a schoolchild the first article or the second article of the Constitution. Then they would be asked the usual questions, make out the usual questionnaires, hand in a self-addressed envelope and hear nothing for 3 months. And then they would go back and do it over again, some of them five, six or seven times, some of them standing in line 2 or 3 days until their turn came.

That is the testimony of an honorable, courageous, devoted American, the president of a great American university, and a priest of his church. It paints a dark and ugly picture of America. It indicts registrars in various parts of the country for a cynical attempt to deny American citizens their right to vote because of the color of their skin.

In its report, the Civil Rights Commission describes the situation of a Negro minister in Louisiana. The report, in part, at page 50, states:

Rev. John Henry Scott is a lifelong resident of East Carroll Parish, on the Mississippi River in northeast Louisiana, where no Negro in the memory of the living has ever been registered to vote. Reverend Scott is pastor of the church organized by his great-grandfather. Neither he nor other Negroes ever had any difficulty being identified for any purpose other than registering to vote: "We are all very well known. * * * When you walk down the street, everybody knows everybody." Nevertheless, on each of the seven occasions when he presented himself for registration, he was told that he had to secure two registered voters from his precinct to identify him. Since only white people are registered, this proved virtually impossible: "I had a white friend * * * on the police jury at that time, and he told me that it wouldn't be any use because it was strictly made up not to register any Negroes."

"Reverend Scott's efforts to secure the right of the suffrage for himself and other Negroes of East Carroll cover more than a decade of disappointment. In 1950 one of their number secured a single white 'voucher,' but his supporting statement was not accepted. Another received assurance from a white voter, but later was told, 'I can't fool with that.' An optimistic Negro once told Reverend Scott, 'I have some white friends, and we are all Christians.' His answer was prophetic: 'But Christians and this registration business is different. Nobody's a Christian when it comes down to identifying you.' "

On the basis of what the members of the Civil Rights Commission saw and heard, they made a recommendation to the Government of the United States. It was a unanimous recommendation. There was no opposition to it by any member of the Commission. They recommended:

That Congress enact legislation providing that in all elections in which, under State law, a "literacy" test, an "understanding" or "interpretation" test, or an "educational" test is administered to determine the qualifications of electors, it shall be sufficient for qualification that the elector have completed at least six grades of formal education.

Mr. President, the record is replete with examples of why it is in the interest of American constitutional government for Congress to pass the kind of legislation which is now pending before it. I think that what I have said, little as it is, indicates the need for Congress to act, and to act now, to enable American citizens who are qualified to vote to have the opportunity to register and to vote, despite the fact that their color happens to be different from yours, Mr. President, or from mine.

IS IT CONSTITUTIONAL?

That leaves the question raised by some Members of the Senate and by some people throughout the country as to whether the proposed legislation is constitutional.

The 14th amendment to the U.S. Constitution provides, in its first section:

Nor shall any State * * * deny to any person within its jurisdiction the equal protection of the laws.

And equal protection of the law specifically applies in the equal opportunity of all citizens to equal treatment in registering to vote.

Section 5 of that amendment provides:

The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

In providing that persons who have completed the sixth grade shall be regarded as literate under any State literacy law, Congress would be enforcing the equal-protection clause of the 14th amendment.

Mr. President, I ask unanimous consent that sections 1 and 5 of the 14th amendment of the Constitution be printed at this point in the RECORD, in connection with my remarks.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT XIV

SECTION 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

SEC. 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

Mr. KUCHEL. Mr. President, I read into the RECORD the 15th amendment to the Constitution:

AMENDMENT XV

SECTION 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude—

SEC. 2. The Congress shall have power to enforce this article by appropriate legislation.

The Attorney General of the United States has said, with respect to the power to Congress to act in this field:

I have no doubt that this bill is valid under that grant of power.

He was referring, Mr. President, to the 14th and the 15th amendments. I agree with him. That is the plain intent of these two amendments, each adopted after the Civil War.

The Attorney General then said:

There is no doubt that widespread deprivations of the right to vote because of race have occurred and continue to occur. The question is not whether this bill is valid, but whether it would correct the situation. Voting tests, which in this day of high educational achievement can exclude persons with a sixth grade education, are potential devices for discrimination. In my judgment, virtually no one with that amount of education has been turned down as a voter for other than racial reasons. Congressional action adapted to correcting this evil is not a questionable innovation. It is overdue.

I agree.

Mr. President, I am one of those who signed the petition for cloture, sponsored by the leaders of the two parties in the Senate. Tomorrow, we shall vote on the question of invoking cloture. I hope that, under the present rules, cloture will be voted. If it is not, then the Members of the Senate will have an opportunity, when voting on a motion to table, to demonstrate their feelings in regard to the issue involved.

It is my judgment that a clear and convincing majority of Senators will vote against the motion to table.

It is my judgment that, therefore, a clear and convincing majority will demonstrate, by their votes in opposition to the motion to table, that they favor this proposed legislation on its merits. They may be joined by others who, by their votes seek to becloud the issue, but, I repeat, I believe a majority of this Senate desire to support the pending bill.

But, Mr. President, if cloture is not invoked, notwithstanding the fact that a clear and convincing majority of the Members of the Senate want to vote in favor of this proposed legislation, if a filibuster prevents them from having such an opportunity to vote then I prophesy to you, Mr. President, that the Senate next January will see to it that the rules of the Senate are appropriately changed.

Those are some of the reasons, Mr. President, which convince me that the proposed legislation, sponsored by the Senator from Montana [Mr. MANSFIELD] and the Senator from Illinois [Mr. DIRKSEN], is in the public interest, is on all fours with the U.S. Constitution, and, beyond that, will demonstrate to the people of the world that we intend to let the banner of American freedom fly equally over all American citizens, no matter where they live, no matter where their forebears came from.

I thank the Chair.

EXHIBIT I

S. 480

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Congress finds that the right to vote is fundamental to free, democratic government and that it continues to be the responsibility of all Federal Government to secure and protect this right against all unreasonable and arbitrary restrictions.

(b) The Congress further finds that the right to vote of many persons has been subjected to arbitrary and unreasonable restrictions on account of race or color; that tests of literacy have been used extensively as a device for arbitrarily and unreasonably denying the right to vote to otherwise qualified persons on account of race or color; and that laws presently in effect are inadequate to assure that all qualified persons shall enjoy this essential right without discrimination on account of race or color.

(c) The Congress further finds that illiteracy is rapidly disappearing in the United States; that the quality of elementary education furnished by the Nation's schools is of high caliber; that persons completing six grades of education in a State-accredited school can reasonably be expected to be literate; that a literate electorate can be assured by affording the right to vote to any otherwise qualified person who has completed six grades of education; and that any test of literacy that denies the right to vote to any person who has completed six grades of education is arbitrary and unreasonable.

(d) The Congress, therefore, further finds and declares that the enactment of this Act is necessary to make effective the guarantees of the Constitution, particularly those contained in the fourteenth and fifteenth amendments, by eliminating or preventing arbitrary and unreasonable restrictions on the franchise which occur through the denial of the right to vote to persons with at least six grades of education and which exist in order to effectuate denials of the right to vote on account of race or color.

SEC. 2. Subsection (a) of section 2004 of the Revised Statutes (42 U.S.C. 1971), as amended, is further amended to read as follows:

"All citizens of the United States who are otherwise qualified by law to vote at any election by the people in any State, territory, district, county, city, parish, township, school district, municipality, or other territorial subdivision, shall be entitled and allowed to vote at all such elections, without distinction of race, color, or previous condition of servitude, and without subjection to any arbitrary or unreasonable test, standard, or practice with respect to literacy; any constitution, law, custom, usage, or regulation of any State or territory, or by or under its authority, to the contrary notwithstanding. 'Arbitrary or unreasonable test, standard, or practice with respect to literacy' shall mean any requirement designed to determine literacy, comprehension, intelligence, or other test of education, knowledge, or understanding, in the case of any citizen who has not been adjudged an incompetent who has completed the sixth primary grade in a school accredited by any State or by the District of Columbia."

Mr. ROBERTSON obtained the floor.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator from Virginia yield briefly to me, with the understanding that in doing so, he will not lose his right to the floor?

Mr. ROBERTSON. Mr. President, I ask unanimous consent that I may yield to the distinguished Senator from Delaware, with the understanding that I do not lose my right to the floor.

The PRESIDING OFFICER (Mr. METCALF in the chair). Without objection, and with that understanding, it is so ordered.

DEFENSE DEPARTMENT DISPOSITION OF INVENTORIES AT INSIGNIFICANT PRICES WHILE PURCHASING IDENTICAL PARTS AT FULL MARKET PRICES

Mr. WILLIAMS of Delaware. Mr. President, today I wish to discuss another situation wherein the Defense Department has been caught disposing of some of its inventories which had been declared surplus at an insignificant fraction of their original cost while in another office it was buying at full market price these identical parts for the purpose of replenishing inventories.

On repeated occasions over the past several years the Comptroller General has called to the attention of the Congress numerous instances of such indefensible waste of the taxpayers' money by the Defense Department.

Under date of February 8, 1962, he submitted another report to the Congress, this one calling attention to the weakness in the management in the Ships Parts Control Center, Department of the Navy, Mechanicsburg, Pa.

In that report he cited numerous instances wherein the Navy was selling as surplus certain parts from its inventories at various supply centers while other centers were purchasing identical parts at full price.

Upon my request the Comptroller General pursued this investigation further, and obtained specific information as to which installations were selling the parts, to whom they were being sold, and the net price being received by the Government for each part, along with information as to the identity of the installations which were buying the identical parts to replenish inventories. I also asked for the amounts being purchased and the prices paid.

The latter report shows:

Example No. 1—see enclosure 2: The Navy sold as surplus 416 weight governors—16 went to Marine Engineering Specialties, Inc., New York City, for 1.6 cents per unit; 49 to Honolulu Supply Co., Ltd., Honolulu, Hawaii, for 12 cents per unit; and the other 351 were disposed of in scrap lots at unidentifiable prices.

While the Navy was disposing of these weight governors at prices ranging from 1.6 cents up to 12 cents each it was purchasing from Dravo Corp., in Philadelphia, 82 identical weight governors at a price of $64 each.

Here we find the Navy paying $5,248 for 82 weight governors which were identical to the 416 it had sold as surplus or scrap for a total of only $6.14.

Example No. 2—see enclosure 1: The Navy Department decided to decrease its inventory of a certain type of spring and

declared 1,040 of these surplus, and ordered their disposal. A spot check showed that 229 of these springs were sold to Pacific Diesel Co., Seattle, Wash., for 5.3 cents each; 134 were sold to J. & E. Diesel Engines & Parts, Inc., Ferndale, Glen Burnie, Md., for 5.4 cents each. The remainder were disposed of as scrap.

The Navy Department then purchased from Cooper Bessemer Corp., Mount Vernon, Ohio, 275 of the identical type spring, at a unit price of $5 each.

Here the Navy was paying $5 for a spring which it was selling as surplus for a nickel or throwing away as scrap.

Example No. 3—see enclosure 3—The Navy Department declared 2,906 bearing units as surplus, and authorized their disposal as follows: 90 were sold to Hatch & Kirk, Inc., Seattle, Wash., for 11 cents each; 450 were sold to S & W Machinery & Supply Co., Oakland, Calif., for 68 cents each; 407 were sold to Diesel Service Co., Seattle, Wash., for $1.32 each; 12 were sold to Allison Engineering Co., Grove City, Pa., for $10.10 each; 206 were sold to Illman Jones, Inc., Oakland, Calif., for 86 cents each; 206 were sold to Pacific Diesel Co., Seattle, Wash., for $1.13 each; 103 were sold to Hatch & Kirk, Inc., Seattle, Wash., for 88 cents each; and 325 were sold to S & W Machinery & Supply Co., Oakland, Calif., for $1.04 each.

Then, apparently on the premise that the Defense Department was running out of these bargains, the record shows that the Navy purchased from the Cooper Bessemer Corp., Mount Vernon, Ohio, 225 units of the identical bearings, with 20 of them being purchased at a price of $92.50 each, and 205 units at a price of $91.25 each.

Thus, in this instance we find that the Navy paid $20,556.25, or an average of over $90 each, for 225 bearing units, while selling as surplus 1,799 identical bearing units, upon which it received a total of only $1,812.98, or an average of just a fraction over $1 each.

These are not isolated cases but are being cited here today as examples of the manner in which the Defense Department insists upon ignoring its responsibility for maintaining proper control over its inventories.

Such examples can be multiplied many times, and the result is that hundreds of millions of dollars are being wasted annually through unnecessary expenditures.

While every American wants to furnish the Defense Department with adequate funds to protect the security of our country, the American taxpayers are getting tired of this continuous repetition of the Defense Department's shopworn alibi, when caught in one of these extravagant episodes, that in the future it will try to do better. For the past 10 years this excuse has been repeated again and again, but as yet it has never been backed up with appropriate action.

I fully recognize that in Defense Department procurement, equipment or parts that are purchased with the best of intentions will ofttimes become obsolete, and thereby become surplus. However, there can be no excuse for parts and equipment which are not obsolete being declared surplus, and then disposed of at a fraction of the original cost, while at the same time identical parts or equipment are being purchased in an adjoining office. In private business, someone would be fired.

I ask unanimous consent that the Comptroller General's letter of April 17, 1962, along with the three enclosures, be printed at this point in the RECORD.

There being no objection, the letter and the enclosures were ordered to be printed in the RECORD, as follows:

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, April 17, 1962.

Hon. JOHN J. WILLIAMS,
U.S. Senate.

DEAR SENATOR WILLIAMS: This is in response to your letter of February 21, 1962, wherein you requested further information on certain items included in our report to the Congress entitled, "Review of the Supply Management of Ship Repair Parts by the Ships Parts Control Center, Mechanisburg, Pa., Department of the Navy."

The specific questions contained in your letter and the information you requested are set forth below. This information was obtained from the records of the Ships Parts Control Center (SPCC) and the Navy installations that disposed of the bulk of the items cited in your letter.

"1. (a) To whom were the 1,040 springs sold?

"(b) What was the unit price received for the 1,040 springs?

"(c) From whom were the 275 springs later bought?"

The springs that SPCC had authorized for disposal were located at 10 different naval installations. We visited four of these installations that had been directed to dispose of 64 percent of the 1,040 springs. We were not able to locate disposal records at all installations. However, where we did locate disposal records, we found that this item was sold as scrap along with numerous other items. Enclosure 1 of this letter lists the buyers and the average price received in those instances in which we were able to locate records of sales containing these items. Enclosure 1 also shows the supplier of the 275 springs that SPCC subsequently purchased.

"2. (a) To whom were the 629 weight governors sold?

"(b) What was the unit price received for the 629 weight governors?

"(c) From whom were the 85 additional weight governors purchased?"

The 629 weight governors were located at 14 naval installations. We visited six of these installations that had been directed to dispose of 62 percent of the 629 weight governors. We were unable to locate records of a sale of this item at two locations. At two other locations we were able to locate records of the sale; however, we found that these items were sold as scrap along with numerous other items and the price received for these items was not identifiable. We were able to locate records of the sales at the remaining two locations. We have included in enclosure 2 the buyers and prices received for these items to the extent that such information was available and the name of the supplier from whom SPCC purchased the additional weight governors.

"3. (a) To whom were the 2,906 bearings sold?

"(b) From whom were the 225 bearings purchased?

"(c) What was the unit purchase price of the 225 bearings?"

The bearings that SPCC had authorized for disposal were located at 12 different naval installations. We visited five of these installations that had been directed to dispose of 82 percent of the bearings. In all instances where we located records of sales of this item, we found that the bearings were identified as such in the notices of sale. Enclosure 3 lists the purchasers of the items for the instances in which we were able to locate records. We also have listed in enclosure 3 the supplier of the 225 bearings that SPCC purchased, and the unit price for this purchase.

Sincerely yours,

JOSEPH CAMPBELL,
Comptroller General of the United States.

ENCLOSURE 1.—*Summary of information relating to disposal and purchase of springs*

DISPOSAL

Naval installation	Purchaser	Quantity		Price
		Authorized for disposal	Disposed of per available records	
Naval Supply Center, Pearl Harbor, Hawaii	Pacific Diesel Co., 340 West Nickerson, Seattle 99, Wash	229	229	$0.053 per unit.
Naval Supply Center, Norfolk, Va	J&E Diesel Engines and Parts, Inc., 600 West Drive Ave., Ferndale, Glen Burnie, Md.	134	134	$0.054 per pound as scrap.
Do	Scrapped	282	277	
Naval Supply Depot, Mechanicsburg, Pa	do	23	23	
Total at locations visited		668		
6 other installations		372		
Total authorized for disposal		1,040		

PURCHASE

Supplier	Quantity	Unit price
Cooper Bessemer Corp., Sandusky St., Mount Vernon, Ohio	275	$5

ENCLOSURE 2.—*Summary of information relating to disposal and purchase of weight governors*

DISPOSAL

Naval installation	Purchaser	Quantity		Price
		Authorized for disposal	Disposed of per available records	
Naval Supply Center, Oakland, Calif.	Marine Engineering Specialties, Inc., 556 Broome St., New York 13, N.Y.	12	16	$0.016 per unit.
Naval Supply Center, Pearl Harbor, Hawaii	Honolulu Supply Co., Ltd., 204 Sand Island Rd., Honolulu, Hawaii	37	49	$0.12 per unit.
Naval Shipyard, Long Beach, Calif.	Gordon S. Potter, 19201 Ronald Ave., Torrance, Calif.	148	161	Not identifiable, scrap lot.
Naval Supply Depot, Mechanicsburg, Pa.	Harrisburg Waste Paper Co., Box 541, Harrisburg, Pa.	10	11	Do.
Naval Supply Center, Norfolk, Va.	Scrapped	130	127	
Naval Shipyard, Norfolk, Va.	do.	51	52	
Total at locations visited		388		
8 other installations		241		
Total authorized for disposal		629		

PURCHASE

Supplier	Quantity	Unit price
Dravo Corp., 1483 Suburban Station Bldg., Philadelphia 3, Pa.	[1] 82	$64

[1] We learned subsequent to our earlier report that, because of allowable variations in quantity permitted under the contract, only 82 weight governors were delivered and payment was made for that number.

ENCLOSURE 3.—*Summary of information relating to disposal and purchase of bearings*

DISPOSAL

Naval installation	Purchaser	Quantity		Unit price received
		Authorized for disposal	Disposed of per available records	
Naval Supply Center, Oakland, Calif.	Hatch & Kirk, Inc., 5111 Leary Ave., Seattle 7, Wash.	370	90	$0.1107
Naval Supply Center, Pearl Harbor, Hawaii	S. & W. Machinery & Supply Co., 980 77th Ave., Oakland, Calif.	475	450	.68
Naval Supply Center, Norfolk, Va.	Diesel Service Co., 740 Westlake, North Seattle 9, Wash.	407	407	1.32
Naval Supply Center, Norfolk, Va.	Allison Engineering Co., 505 Forest Dr., Grove City, Pa.	12	12	10.10
Naval Shipyard, Long Beach, Calif.	Illman Jones, Inc., 980 77th Ave., Oakland, Calif.	202	206	.86
Naval Shipyard, Long Beach, Calif.	Pacific Diesel Co., 340 West Nickerson, Seattle 99, Wash.	202	206	1.13
Naval Shipyard, Long Beach, Calif.	Hatch & Kirk, Inc., 5111 Leary Ave., Seattle 7, Wash.	99	103	.88
Naval Supply Depot, Mechanisburg, Pa.	S. & W. Machinery & Supply Co., 980 77th Ave., Oakland, Calif.	622	325	1.04
Total at locations visited		2,389		
7 other installations		517		
Total authorized for disposal		2,906		

PURCHASE

Supplier	Quantity	Unit price
Cooper Bessemer Corp., Sandusky Street, Mount Vernon, Ohio	225 { 20@ / 205@	$92.50 / 91.25

Mr. ROBERTSON. Mr. President, I ask unanimous consent that I may yield for not more than 5 minutes to the distinguished Senator from Illinois [Mr. DOUGLAS] for the purpose of making a statement.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

SEGREGATION OF SCOTCH-IRISH

Mr. DOUGLAS. Mr. President, I felt compelled on April 25 to take the floor of the Senate and to protest against a movement developing in Mississippi to segregate the Scotch-Irish. I introduced into the RECORD articles from the Petal Paper, which made a vicious attack upon the Scotch-Irish and urged that they be segregated from all social events in that State, and, indeed, throughout the Nation.

I then addressed a letter to the editor of the Petal Paper, and, among other things, I said:

You have gone too far, and I shall have to defend the Scotch-Irish even if it takes the last drop of my blood. May I plead with you that you do not renew your efforts. In spite of all your errors, I like you very much and I only hope that we can convert you so that you will not advocate segregation of anybody. I must confess to you also that I am opposed to segregation of the Negroes. I hope that you will not take this amiss, and that you will hold fast to your former convictions in this respect, at least, even though you have been led astray by the Scotch-Irish. Come to your senses, my boy.

I had hoped that my message would affect beneficently the attitude of the Petal Paper, but it did not.

In fact, I noticed in an editorial which appeared in the New Republic for May 7 that a journalist writing under the name "T.R.B." endorses the segregation of Scotch-Irish. I ask unanimous consent that this editorial be printed at this point in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the New Republic, May 7, 1962]

YOU-KNOW-WHO

In Hattiesburg, Miss., Mr. P. D. East publishes a lighthearted journal called the Petal Paper. In recent months it has taken on a graver note. It has delved into what ails the country and has found the answer; Mr. East has come out in favor of segregation, segregation for the Scotch-Irish.

Not one to wince at grim facts, the Petal Paper notes the degree to which miscegenation has already gone; the Scotch-Irish threat, it reports, not merely menaces our bloodstream but our very way of life. Look at their morals, it cries; look at Mary Queen of Scots and Macbeth. They dance highland flings and drink usquebaugh. Let us go out straightway and segregate our schools and golf courses.

This column wishes to enlist firmly under the Petal banner. Tolerance can go only so far. Our motto: Act before it is too late. We wholeheartedly join Southern United Sons and Daughters for Segregation (Scotch-Irish chapter).

Our friend, Senator PAUL DOUGLAS, holds back. He insists that he is opposed to all race prejudice. This, we maintain, is simply sickly liberalism. Perhaps there is another more sinister reason. The libel law being what it is we shall merely hint. But note the name, "DOUGLAS."

We plan to lend full support to Senator RUSSELL'S current filibuster against the civil rights literacy bill if he will include the you-know-who. Why should they be permitted to vote anyway; it strikes at the heart of our constitutional system. The Scotch-Irish are all right in their place, but would you want one to marry your daughter?

One point more. Louisiana freedom buses must be organized. The Scotch-Irish must be sent back where they come from. Since they come from practically everywhere this, at first sight, presents difficulties. Not at all. Give them free, one-way tickets to wherever they want to go. It will solve all America's racial problems overnight.

T.R.B.

Mr. DOUGLAS. Mr. President, only a day or two ago I received a letter from Mr. East which is so abominable that I think it should be exposed to public view where I think it will meet its due disapprobation.

Mr. East said:

MAY 1, 1962.

Hon. PAUL H. DOUGLAS,
U.S. Senator,
Senate Office Building,
Washington, D.C.

DEAR SENATOR DOUGLAS: I have your letter of April 26 in which you take me to task for my efforts to segregate the Scotch-Irish. Needless to say, Senator, I was more than surprised by the position you have taken, your Scotch blood notwithstanding. While it is true that a few of the Scotch-Irish have risen above their normal station in life—notably, you, President Kennedy, and possibly three or four others, the fact is that the vast majority are a menace to our way of life. Just 2 days ago, while standing on a street corner, I heard a 6-year-old child rolling an "R." Now as a Senator, it is my belief that you have the responsibility to help Nathan Bedford Coocloose and me to stamp out, to eradicate, from the face of our Nation the kind of oppression to which I referred.

Those items contained in the paper which you so violently attacked on the floor of the U.S. Senate are factual and a matter of record. I shall not let my personal feelings enter into this discussion, but I cannot refrain from saying that for many years I have been one of your most ardent admirers. It grieves me deeply to see that you have made such an error in judgment as evidenced by your Senate speech. While I do not expect this remark to be my crowning argument, I am reminded by what my sainted mother used to say to me: "Son," she would say to me, "these folks just ain't our kind of people." So you see, Senator, I have not only the facts as reported in the news stories from Minnowsville, Miss., Blue Ribbon, Miss., and other areas, but I have the benefit of parental knowledge on my side. Senator, believe me, they just ain't our kind of people.

I hope this brief note will cause you to rethink, to reevaluate your judgment and perhaps rescind and even apologize for your emotional remarks made on April 25 on the floor of the U.S. Senate.

With kind personal regards,

P. D. EAST.

I wish to say that I do not apologize. I stand on what I said. We should not segregate anyone in this country. I realize that Macbeth, Lady Macbeth, and Mary Queen of Scots were of Scotch blood. I know that this is casting a blot upon the Scottish race, but I submit that the race as a whole should not be judged and should not be condemned for the derelictions of a few members of the race.

We have tried to live down the murders of Macbeth, and I have tried to live down the actions of the Black Douglases and the Red Douglases, who misbehaved in Scotland centuries ago. We may have done so imperfectly, but we should have a chance. Mary Queen of Scots should not be held against us.

NEGOTIATIONS ON BERLIN

Mr. SCOTT. Mr. President, will the Senator from Virginia yield to me for a few moments, with the understanding that he does not lose his right to the floor?

Mr. ROBERTSON. Mr. President, will the distinguished Senator from Pennsylvania more clearly define what he means by a few moments? Does he mean 1 minute, or 5 minutes?

Mr. SCOTT. I am glad to accede to the request of the distinguished Senator from Virginia. I have a statement of a page and a half. This is the only hour of the day that I am able to get to the Senate floor.

Mr. ROBERTSON. I ask unanimous consent that I may yield for the page and a half, without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered, with that understanding.

Mr. KEATING. Mr. President, will the Senator yield further?

Mr. ROBERTSON. I yield.

Mr. KEATING. It was my understanding that the distinguished Senator from Pennsylvania was going to speak with regard to the Berlin situation.

Mr. SCOTT. That is correct.

Mr. KEATING. I had about a 2-minute statement I would like to make on that subject, if the Senator from Virginia would be willing to include that in his request.

Mr. ROBERTSON. I have been waiting here a long time. I want to be very generous with my friends. With the understanding that the first Senator will not take more than 3 minutes, and that the second Senator will not take more than 2 minutes, I ask unanimous consent that I may yield for 5 minutes.

The PRESIDING OFFICER. With the understanding that the Senator from Virginia does not lose the floor, the Senator from Virginia yields first to the Senator from Pennsylvania.

Mr. SCOTT. Mr. President, the regular spring ministerial session of the North Atlantic Treaty Organization Council, which was held in Athens, Greece, last week has come to a close.

The communique, which was issued at the termination of the Conference stated:

The Council examined the Berlin question in the light of the basic commitments of NATO in this regard. They took note of the most recent developments in the situation, including the fact that exploratory talks are taking place with the Soviet Union. They took the opportunity to reaffirm their attachment to the principles set forth in their declaration of the 16th of December, 1958, on Berlin.

It has been reported that Secretary of State, Dean Rusk, was pleased with the progress he made with Britain, France, and West Germany on his talks on Berlin with the Soviet Union. As we know, it is planned that the Secretary will resume his talks with the Soviet Ambassador sometime this month. I fully endorse the U.S. position of further probing with the Soviet in hopes that a peaceful settlement may be reached on the Berlin question.

On the other hand, as I pointed out last week, I am most concerned that, in the course of this probing we, the United States, do not give up any basic rights dealing with free access to Berlin. I would hope, Mr. President, that the administration and the appropriate committees of the Congress would carefully study any proposals that might possibly be made to the Russians during the course of these negotiations.

The timeliness of the concern voiced by Senators KEATING, JAVITS, and myself is highlighted by an article in the official organ of the East German Communist Party—Neues Deutschland—dated May 6. As reported by the New York Times correspondent in Bonn, Germany—Sydney Gruson—the Communist paper described as "unthinkable" the concept of an international authority on access to Berlin that gave East Germany anything less than absolute rights to control all traffic across its territory. The Communist paper has held fast to the position that the basic principle in a Berlin settlement must be an end of West Berlin occupation status.

As you know, Mr. President, the U.S. position is that the presence of allied forces in Berlin is nonnegotiable. This is commendable and a proper position, but I would hope that no negotiations on the part of our Government would tend to ultimately weaken that position. We are aware that Berlin is "an island of freedom in a sea of Communist tyranny." It is a democratic refutation of Communist success, and the Russians, the Communist East Germans, and the Soviet satellites would welcome a gradual weakening of its position as an outpost of the free world. The Communists, of course, are taking the extreme position in that they demand that the Soviet Union negotiate as a representative of the Allies with East Berlin on disputes concerning access routes. It is my feeling that any dilution of the rightful stand of free access, subject only to the rights that we legally, politically, and morally deserve, would be a violation of not only our commitments to a free people but a violation of our obligations to those who won and sustained those rights.

It is interesting to note, Mr. President, that in an UPI release yesterday, West German Chancellor Konrad Adenauer said he considered the 13-nation board proposed by the United States to settle Berlin traffic disputes "unworkable" and

that West Germany would prefer not to be a member.

I again reiterate, Mr. President, my hope that Gen. Lucius Clay, certainly the best advised individual on Berlin, be asked for his views by the appropriate committees of the Congress on any proposal affecting our access rights to Berlin.

I wish to call attention to the fact that it is now quite clear that this 13-nation proposal would have included 3 neutrals, Sweden, Switzerland, and Austria; that the proposal was actually a part of our plan; that it was intended to be proposed; and if it is not proposed, I assume we shall hear excuses to the effect that it was never seriously considered.

I am satisfied that it was seriously considered. I am satisfied that incidents concerning the recall of the German Ambassador, with the obviously irate position taken by the West German Chancellor, all point to the same conclusion, which is that the United States did contemplate inclusion of the three neutralists, and that the proposal would have put the control of the access routes to Berlin in the hands of neutralists and eventually the Communists; and that it was unwise. I hope the State Department is now prepared to withdraw this proposal, which I consider unwise, iniquitous, and unworkable.

Mr. President, I assume my time is up.

The PRESIDING OFFICER. The Senator from New York.

Mr. KEATING. Mr. President, I am happy that the Senator from Pennsylvania has called attention to this situation again.

Mr. President, Chancellor Adenauer's position that an international authority to safeguard access rights to West Berlin would be "unworkable" must seem to many Americans a very sensible point of view. The situation in Laos right now is just one example of how international commissions have failed to meet the problems of direct cold war confrontation.

There are strong indications that at least one element, probably the most objectionable element, of the American plan has already been modified. I understand now from State Department sources that we will not insist on including East Germany in any international body in the face of strong, and to my mind entirely justified, opposition. Certain trade and access agreements between the two Germanys may be useful, but there is no reason in the world to give any kind of international status to Ulbricht's puppet regime.

Incidentally, I have also been informed that the State Department is not responsible for the reportedly imminent recall of German Ambassador Grewe. If he is persona non grata anywhere in Washington, it is not at the State Department, I am told.

Basically, Mr. President, our policy in Berlin has been to react, and sometimes, as in the vital matter of the Berlin wall, to retreat. We have taken no initiative. We have not advanced or improved our own position.

We have put, and I am afraid we still are putting, too much faith in agreements and in documents. The Russians are not bound by such a legalistic position. They did not need a document telling them they could build a wall between East and West Berlin. They relied on the political judgment that they could build such a wall and get away with it. Unfortunately, they were right. Even if an international authority over Berlin access routes could be negotiated—which I doubt—I am sure the Communists would not respect the spirit of that agreement any more than they have respected previous quadripartite agreements on Berlin.

Finally, Mr. President, before any negotiations on access to West Berlin are undertaken, I would like to see an American effort to increase our access to East Berlin. That is a right we still possess, but if it is not vigorously exercised, it, too, will be eroded. A continued and strong American presence, through increased patrol in East Berlin, is an important part of our position. It should be emphasized and built up before we enter any negotiations with the Communists.

Mr. HUMPHREY. Mr. President, will the Senator from Virginia yield to me?

Mr. ROBERTSON. For what purpose?

Mr. HUMPHREY. I would like to make a response.

Mr. ROBERTSON. I yield 3 minutes to the Senator from Pennsylvania and 2 minutes to the Senator from New York——

Mr. HUMPHREY. Will the Senator yield me 2 minutes?

Mr. ROBERTSON. I yield 2 minutes to the Senator from Minnesota, with the understanding that I do not lose the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. HUMPHREY. Mr. President, I had an opportunity to quickly scan through the text of the comments of the distinguished Senator from Pennsylvania [Mr. SCOTT], and I have listened to the comments of the Senator from New York [Mr. KEATING].

I think it should be manifestly clear that the situation relating to Berlin is one of the most complex and one of the most dangerous situations confronting this Nation. The Secretary of State seeks to do only one thing in the name of the President; that is, to secure and to make even more secure the freedom and the rights of the people of West Berlin. Any talk about any negotiations relating to access to Berlin is talk of negotiations designed to make even more secure and viable the lives and the economy of the people of West Berlin.

I do not think we help our country in these difficult days by letting it appear that we are about ready to negotiate away something which this country earned on the field of battle and in regard to which a commitment has been made by this Nation repeatedly.

Very frankly, I did not like the fact that there was a leak out of official German sources relating to some of the discussions the Secretary of State allegedly was to be holding. That is not the way to secure good, sound international relations. I am happy that the Chancellor of Germany, Mr. Adenauer, who is a great man, has seen fit to make every effort to be sure this does not happen again.

Let the record be clear. The United States made a commitment to Berlin in 1958. The United States made a commitment after the war. The United States made a commitment in 1948, after the airlift. President Kennedy and this administration have strengthened our position regarding Berlin, and have strengthened our National Defense Establishment even to the point that newspaper reports are that in NATO the foreign ministers were surprised by the incredible strength of the United States of America, as revealed in the Council of NATO in Athens.

There is no intention on the part of this Government, this Nation, or this administration to chip away or to sacrifice the rights of the people of Berlin, or our privileges and rights in Berlin.

Mr. SCOTT. Mr. President, will the distinguished Senator from Virginia permit me to propound a question to the Senator from Minnesota, since I have reason to have some disagreement with him on this subject?

Mr. ROBERTSON. I will yield for not more than 30 seconds.

Mr. SCOTT. I thank the Senator.

My question to the Senator from Minnesota is this: State Department sources, as the Senator from New York [Mr. KEATING] has said, have assured the Senator from New York that they are not now going to proceed with the inclusion of East Berlin in the so-called multinational, 13-nation, commission. If our Government has not been proposing a 13-nation international commission—and indeed it has—why would it be necessary for State Department sources to advise the Senator from New York [Mr. KEATING] that they are now changing their proposal by not including East Berlin as a member?

Mr. HUMPHREY. Mr. President, will the Senator from Virginia permit me 30 seconds for a reply?

Mr. ROBERTSON. I yield 30 seconds, so that the Senator may reply.

Mr. HUMPHREY. I say, in response, first, that for a government such as ours to talk or to negotiate it obviously must have a series of proposals. The purpose of those proposals is to safeguard West Berlin and the access rights of the United States and other countries to West Berlin.

Furthermore, Mr. President, there has been no finality of negotiation. What is more, I have no information whatsoever that the State Department at any time has intended to give official status to East Germany. To the contrary, I have heard from the lips of prominent officials in West Germany that they were prepared to undertake certain negotiations with East Germany, even as the finger was being pointed at this Government for being too soft about Berlin.

I was in Berlin. I was in Bonn, Germany. I talked to the Chancellor. I talked to the Foreign Minister. I talked to leaders of the Parliament.

While the finger is being pointed at this Government for its alleged softness on the East Germans, the West German Government itself frequently talks about what negotiations it is willing to conduct.

Mr. SCOTT. The Senator and I remain in disagreement.

Mr. ROBERTSON. Mr. President, the only comment the junior Senator from Virginia wishes to make about the Berlin crisis is that if the three distinguished colleagues who have been discussing Berlin will agree with me tomorrow in the debate on the pending proposal, the junior Senator from Virginia will start prompt hearings on the Defense Department appropriation bill, which will give us something with which to shoot if we have to shoot. With all due deference, the junior Senator from Virginia thinks that the Defense Department appropriation bill is more important to the welfare of this Nation than the Senate's consideration of a bill designed to wipe out literacy tests in Louisiana or Mississippi merely because it is a little tedious for the Justice Department to go into court to prove, under the 15th amendment, that a man has been illegally prevented from voting.

JAMES M. NORMAN—LITERACY TEST FOR VOTING

The Senate resumed the consideration of the bill (H.R. 1361) for the relief of James M. Norman.

Mr. ROBERTSON. Mr. President, I wish to say that Southern Senators who, for more than 2 weeks now, have been attempting as best they could to keep their colleagues from tearing the Constitution to tatters, although all of us took the same oath to uphold and support it, find some gratification in the fact that the debate, for the most part, has been presided over by a very able and considerate colleague (Mr. METCALF in the chair), who listens patiently and attentively to our arguments and who has never once complained that we have exceeded the bounds of propriety in our insistence that the precious doctrine of States' rights be maintained, if we are to keep our freedom under constitutional government.

Mr. HILL. The distinguished Senator from Montana [Mr. METCALF], now presiding in the Senate, was formerly a distinguished judge in his own State.

Mr. ROBERTSON. I knew he had been properly trained and that he could appreciate constitutional arguments.

Mr. President, it is the duty of elected Representatives of Congress to pass upon the constitutionality of issues which come before them in the form of proposed legislation. This responsibility is ours because the oath which each of us took to uphold the Constitution requires that before we give weight to any other considerations in determining the merit of proposed legislation, we must first answer in the affirmative the question, "Is this measure constitutional?"

How are we to determine the constitutionality of proposals which come before us? First, we must place the facts in their true historical perspective. Then we must review the interpretation of those facts by our Founding Fathers, the statements of legislators while proposals were pending, and the decisions of the Federal courts.

This view has been expressed no more cogently than by the great American constitutional lawyer, George Ticknor Curtis. Mr. Curtis will be remembered by students of American history for his brilliant arguments before the U.S. Supreme Court in the famed Dred Scott case.

Mr. President, to digress briefly, I would like to point out that there was not any question about the wisdom and constitutionality of the decision in the Dred Scott case; however, it had serious political overtones. The candidate for the Republican nomination for President, Mr. Lincoln, criticized the decision. The decision, however, was clearly a proper one for it rested upon the fact that there was nothing in the Constitution to prohibit slavery.

In this regard, there were Virginians in the Constitutional Convention who proposed to have inserted in the Constitution a provision prohibiting the slave trade; however, representatives of some of the Northern States—Massachusetts, for example—were making so much money transporting slaves to Virginia, that they threatened to walk out of the Convention if such a provision were adopted. It was, therefore, necessary to abandon the attempt.

Jefferson was in France at the time, but he urged Madison to sponsor the provision.

I mention the Dred Scott decision to illustrate the part which history has played in the interpretation of the Constitution. Although the decision had political and racial overtones, it was perfectly constitutional. Yet a man who was to become the President of the United States denounced it; and the State of Wisconsin dared Federal marshals to enforce the decision within its bounds.

Southerners, however, are now castigated for their refusal to accept the 1954 school integration decision as the supreme law of the land.

Mr. Curtis, in his argument before the Supreme Court in the Dred Scott case, had the following to say regarding the relationship of history to the interpretation of the Constitution:

> I wish, in the next place, to say, may it please your honors, what indeed is obvious to everyone that this is eminently a historical question. But I shall press that consideration somewhat further than it is generally carried on this subject, and much further than it has been carried by the counsel for the defendant in error; for I believe it to be true of this, as it is of almost all questions of power arising under the Constitution, that when you have once ascertained the historical facts out of which the particular provision arose, and have placed those facts in their true historical relations, you have gone far toward deciding the whole controversy. So true is it that every power and function of this Government had its origin in some previously existing facts of the national history, or in some then existing state of things, that it is impossible to approach one of these questions as one of mere theory, or to solve it by the aid of any merely speculative reasoning. Hence it is eminently necessary on all occasions to ascertain the history of the subject supposed to be involved in a controverted power of Congress, and above all, to approach it with the single purpose of drawing that deduction which the constitutional history of the country clearly warrants. ("Constitutional History of the United States," George Ticknor Curtis, p. 502.)

And summarizing briefly the relationship between history and suffrage in America, Albert Johnston McCulloch observed at page 32 of his book, "Suffrage and Its Problems":

> While there has been a revolution in the conception of citizenship, there was no such change in the regulation of suffrage, the determining and regulating power continued to rest with the States. However, much as publicists and reformers may desire a uniform national suffrage law, it is unattainable; expediency and constitutionality are both adverse. In fact such a plan was considered by the Constitutional Convention itself, but it received the vote of only one Commonwealth—Delaware. "The provision made by the Convention appears to be the best that lay within their option." The Fathers were satisfied for the States to continue to make their own suffrage tests, rather than to further prolong the Convention and so further endanger the rather slim chances of ratification by the several Commonwealths. The prospect in the Convention itself was anything but promising. Even Franklin moved to call in a person that they might invoke the "assistance of Heaven."
>
> The Constitution conferred the franchise on no one. Likewise citizenship does not bestow suffrage, either upon the natural born or the naturalized alien. The several States have the unqualified right to impose qualifications and regulate suffrage subject only to the limitations in the amendments referred to above. In handing down the decision in the case of *Corfield* v. *Coryell*, Judge Washington in enumerating the privileges and immunities that are usually associated with citizenship, said: "To which is to be added the elective franchise, as regulated and established by the laws or constitutions of the State in which it is exercised."

Mr. President, one of the finest arguments which has yet been made with regard to the constitutionality of the so-called literacy test proposals was presented on April 10 of this year before the Subcommittee on Constitutional Rights of the Senate Judiciary Committee by a Virginian, Frederick T. Gray. Mr. Gray is a member of the Commission on Constitutional Government of Virginia and a former attorney general of our State. He ranks among the ablest constitutional lawyers in this country and, therefore, his remarks carry considerable weight. In order that the arguments of Mr. Gray against the constitutionality of S. 2750 be given a larger forum and since his words should sway anyone with an open mind on the subject, I intend to read his statement at this time:

SENATE BILL 2750

> In recent years those of us who believe that our Constitution is, and ought to be, a sacred compact between the people and their government have on many occasions trembled with anxiety as the Nation's highest tribunal deliberated on the meaning of words in that document. We have been appalled at times when the Court has permitted "changed conditions" to change the meaning of the Constitution itself. The proponents of Senate bill 2750 have been

among those who have applauded such actions by the Court and have sought to relegate criticism of it into the category of near treason by chanting, almost as though in unison, "supreme law of the land" and by reminding us that we are sworn to uphold and defend the Constitution and that the Court's decisions "are the Constitution."

What say these ardent advocates of the Court to its 1959 pronouncement in the case of *Lassiter* v. *Board of Supervisors* (360 U.S. 45). There a unanimous Court, speaking through Mr. Justice Douglas, upheld the literacy test for voting prescribed by the laws of North Carolina and said, among other things:

"In our society * * * a State might conclude that only those who are literate should exercise the franchise."

This, of course, was not an unprecedented decision. I will point out in the course of these remarks several other occasions on which the Court has held similarly. Perhaps in one respect the decision is surprising, that being that it is the same view held by the Court over the years—certainly as far back as 1884.

In an examination of proposed legislation such as Senate bill 2750, it is all too easy to make broad generalizations as to the merit or lack of merit of the proposed law. I shall not pause to question the fairness of a nationwide standard calling for the completion of six primary grades when there is no provision for uniformity of school levels throughout the Nation. It may be that one with a sixth-grade education in one State will have been required to reach a much higher degree of literacy than one who completed that grade in another State. One might go further and ponder the compounding of that "unfairness," if such it be, when such persons change residences from one State to another.

I suspect that a number of the bill's proponents will support it on the ground that the right to vote is basic to our concept of a democratic republic, and therefore all citizens of the Nation should be subject to uniform voting laws. If Senate bill 2750 is enacted into law and the principle established that Congress can control the requirements for voting in the States, surely these worshipers of uniformity, who believe that the term "States rights" is equivalent to "abuse of the individual" and who believe that only the Federal Government can protect individual liberties, surely they will be quick to contend that under that power Congress must act to eliminate the unfairness I have mentioned by standardizing education throughout the land—under Federal control, of course.

I shall not deal here with an argument as to the merits, or lack of merits, of uniformity. Those who support this measure with that argument miss the point. It is an argument which can only be properly made in support of an amendment to the Constitution.

Mr. President, I pause here to say that I understand the distinguished Senator from Tennessee [Mr. KEFAUVER] plans to offer such an amendment to the Constitution. In his opinion, the present bill is utterly unconstitutional. He, nevertheless, believes in the objective of the proposal; and, therefore, at an appropriate time he plans to offer an amendment to the Constitution, along the lines of the pending measure.

I resume the quotation:

Conversely, many who place their confidence in the true Federal system of dual government may tend to generalize that under the 10th amendment, control of the franchise is reserved to the States, as it is not a power delegated to the General Government. They err by relying on a general provision when the true bar to Federal control here can be pointed out in more specific language. The authors of the Constitution of the United States dealt with the exercise of the franchise in five separate sections of the documents: Art. I, sec. 2; art. I, sec. 3 (which was repealed in part by the 17th amendment); art. I, sec. 4; art. II, sec. 1, cl. 2; and art. II, sec. 1, cl. 3. Four of the 23 constitutional amendments have been totally or partially devoted to that problem. They are the 14th, 15th, 17th, and 19th amendments. The 12th amendment, dealing with the electoral college, and the 23d amendment, conferring on residents of the District of Columbia the right to vote in presidential elections, are not considered strictly applicable to this discussion and thus are not included in the enumeration.

I submit, therefore, that a calm and rational review of the Constitution and its amendments, together with the constitutional debates and judicial decisions on the question, will set forth clearly the authority or lack of authority of Congress to enact the proposed bill into law. My conclusion, after detailed consideration of the authorities, is that Congress lacks power under the Constitution to enact the proposed legislation.

Mr. HILL. Mr. President, will the Senator yield?

Mr. ROBERTSON. I yield to the distinguished Senator from Alabama.

Mr. HILL. Is it not true that case after case make it very definitely clear that Congress has no power to enact any such legislation as is proposed, in the very teeth of section 2, article I of the Constitution?

Mr. ROBERTSON. Absolutely. As I said at the outset of my remarks, the way to interpret a provision of the Constitution is, first, to review its historical background.

Mr. HILL. Is it not true that the thing created, which was the Federal Government, could have only such powers and only such rights as the States themselves granted and delegated to the Federal Government?

Mr. ROBERTSON. That was just as clear as it could be. For fear that someone might later claim other powers for the Central Government, a number of the States, including Virginia, refused to ratify the Constitution until assurances were given that an amendment would be offered to provide that all powers not delegated to the Federal Government or specifically denied to the States were reserved to the States or to the people thereof.

Mr. HILL. That is the 10th amendment to the Constitution, which is part and parcel of the Constitution, and has been since the Constitution was written. The States would never have ratified the Constitution if it had not been agreed to put into the Constitution what we know as the Bill of Rights, which includes the 10th amendment to the Constitution.

Mr. ROBERTSON. When delegates met in Philadelphia in 1787 to write a Constitution, the States had already provided their own various qualifications for voters. They were not willing for the Federal Government to prescribe uniform qualifications.

As the distinguished Senator from Alabama [Mr. HILL] has said, the Supreme Court has upheld repeatedly the exclusive right and power of the States to fix the qualifications for their voters, provided that the qualifications for the electors of Federal officers be similar to those for the electors of the most numerous branch of the State legislature.

The 15th amendment provides that a person must not be discriminated against because of race, color, or previous condition of servitude.

The 19th amendment provides that persons may not be discriminated against by reason of sex.

These amendments in no way, however, empower the Central Government to set affirmative voter qualifications.

Mr. HILL. Mr. President, will the Senator from Virginia yield?

Mr. ROBERTSON. I yield.

Mr. HILL. Is it not true that this very question arose when the House and Senate were considering the adoption or the submission of the 14th Amendment, and that Mr. Thaddeus Stevens, of Pennsylvania, who was chairman of the Committee on Reconstruction, which was the committee that reported the amendment, made it very definite and clear that there was absolutely nothing in the amendment which would in any way give to Congress the power to fix the qualifications of voters?

Mr. ROBERTSON. He certainly did; and he held out the hope that perhaps in another amendment this could be done; but when he tried to implement his intentions in the language of the 15th amendment, his proposal was rejected.

As the distinguished junior Senator from Georgia [Mr. TALMADGE] pointed out yesterday, Congress has enacted many laws, civil and criminal, to protect voting rights under the 14th, 15th, and 19th amendments. However, the Attorney General argues that it is too much trouble to proceed under those statutes. He recommends that we adopt an arbitrary sixth grade standard as an irrebuttable presumption of literacy—and this in spite of his admission that voter qualifications established by the Federal Government would be unconstitutional.

I shall now return to my reading of the excellent statement by the former Attorney General of Virginia, Mr. Gray. He said:

Senate bill 2750 is simply a bill to set minimum literacy requirements which, having been met, entitle an individual to vote in Federal elections without further testing by any State. A Federal election, according to the bill, is any "general, special, or primary election held solely or in part for the purpose of electing or selecting any candidate for the office of President, Vice President, presidential elector, Member of the Senate, or Member of the House of Representatives, Delegate, or Commissioner from the territories or possessions." It is true that lines 5 through 14 at page 3 of the bill prohibit such acts as coercion or application of unequal standards to persons who attempt to vote in Federal elections, but these acts already are prohibited by statute and case law, as well as by constitutional amendments. I refer to the Civil Rights Act, 42 United States Code, section 1971 (b) (1961) and the cases of *United States* v. *Raines*, 362 U.S. 17 (1960) and *United States* v. *McElveen*, 177 F. Supp. 355 (E.D. La. 1960). The only apparent reason for the provisions

in lines 5 through 14 of the bill is that they lend some authority to the proposed law by incorporating standards which previously have been approved. The important portion of the bill is clause (2) of paragraph (b), comprised of lines 15 through 21 on page 3. Reduced to its essential provisions, this clause outlaws the literacy tests of the several States by providing that if any person shall have a sixth-grade education, and shall not have been adjudged incompetent, that person shall not be denied the right to vote.

As authority for congressional action of this nature, the authors rely upon "article I, section 4, of the Constitution; section 5 of the 14th amendment, and section 2 of the 15th amendment; and its (Congress') power to protect the integrity of the Federal electoral process. * * *" In examining the authority relied upon, I shall first analyze in detail the authority of Congress under article I, section 4, to control "the times, places and manner" of holding elections for U.S. Senators and Representatives. Next I shall consider the propriety of the proposed legislation under the 14th and 15th amendments. Finally, I shall touch upon currently existing civil rights laws and some special considerations applicable to presidential elections.

Article I, section 4, states that "The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof: but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators."

It cannot be disputed that Congress can regulate the times and places of holding elections for Senators and Representatives, within the limits set. The problem arises over the interpretation of the word "manner." Webster's preferred definition of the word describes "manner" as "a way of acting, a mode of procedure." This throws little light upon the usage of the word, and one is justified in concluding that "manner" as used in this instance refers to the how, when, and where of the election. Absent indications to the contrary, then, the ambiguous nature of the word might lend support to the theory that Congress has final control of the time, place, and general conduct of each election for a Senator or Representative. However, as previously stated, the Constitution is specific with regard to voting rights, and article 1, section 2, provides that: "The House of Representatives shall be composed of Members chosen every 2d year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature."

Obviously, the Constitution contemplates that each State will fix its own qualifications.

The same provision as to qualifications to vote in elections for Senators was adopted by the 17th amendment in 1913, which provides: "The electors (for Senators) in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures." A normal interpretation of this section reveals clearly that while Congress may control the general proceedings as to time and place of a congressional election, each State is to set its own qualifications which must be met by individuals who seek to exercise the franchise. Under article I, section 2, the Thirteen Original States were admitted to the Union with varying laws as to qualification of voters, and States subsequently admitted brought with them their own laws as to that qualification. For example, Massachusetts required of a voter "a freehold estate * * * of the annual income of 3 pounds, or any estate of the value of 60 pounds"; Connecticut qualified only such persons as had "maturity in years, a quiet and peaceable behavior, a civil conversation, and 40 shillings freehold or 40 pounds personal estate"; New Jersey denied the franchise to any save "all inhabitants * * * of full age who are worth 50 pounds * * *." Of course, the States are prohibited by the 15th and 19th amendments from discriminating on the basis of race or sex.

The purpose for which article I, section 4, was intended is disclosed by an examination of the attitude prevailing at the time of adoption of the Constitution. In conventions called by the 13 States to ratify the Constitution, amendments were proposed to limit the power of Congress under article I, section 4, to cases where the States neglected or refused to make provisions for Federal elections. It was contemplated that in case any State sought to withdraw from the Union by failing to elect Senators or Representatives, Congress should have power to set the time, place, and procedure for its own elections. Although a majority of the States—Massachusetts, New Hampshire, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, and Virginia—supported such an amendment, they took no action because of assurances that Congress would not overstep its authority by attempting to control State election procedure. In this regard, James Madison said, "the election of the House of Representatives * * * will probably, forever be conducted by the officers, and according to the laws of the States." It should be noted that at that time, election of Senators was by State legislatures, so that there was no question of Federal control of those elections. Ninety-two years later, in the case of *Ex parte Clarke*, 100 U.S. 399, Justices Fields and Clifford stated that clarification of article I, section 4, was "abandoned upon the ground of the improbability of congressional interference. * * *"

In the debates of 1842 concerning the power of Congress to provide that elections of Representatives should be by districts (which power cannot be made analogous to the power to prescribe vote qualifications), Mr. Nathan Clifford of Maine, later a Supreme Court Justice, referring to the opinion of John Jay, said Jay believed "that every government was imperfect, unless it had the power of preserving itself. Suppose that, by design or accident, the States should neglect to appoint Representatives. * * * The obvious meaning of the paragraph (art. I, sec. 4) was, that if this neglect should take place, Congress should have the power, by law, to support the Government and prevent dissolution of the Union."

Mr. Clifford then referred to an opinion in which Mr. Samuel Adams, of Massachusetts, expressed the same view. Both of Mr. Clifford's statements may be found by reference to the Congressional Globe, 27th Congress, 2d session, at the appendix, page 349. Clearly then, Congress was intended to have the power to schedule elections in the event that the States neglected to provide for elections.

In a committee report of the House of Representatives in 1901, concerning a disputed election, the committee decided that "the best opinion seems to be that * * * the constitutional provision (art. I, sec. 4) was inserted for the purpose of giving Congress the power to provide the means whereby a State should be represented in Congress when the State itself, for some reason, has neglected or refused to make such provision itself."

The report is cited as House Report No. 3000, 56th Congress, 2d session (1901). The same report, at page 3, quotes a report by Mr. Webster in the 22d Congress:

"It is enough that the State presents her own representation on the floor of Congress in the mode she chooses to present it. If a State were to give one portion of her territory a representation for every 25,000 persons, and to the rest a representation only for every 50,000, it would be an act of unjust legislation, doubtless, but it would be wholly beyond redress by any power in Congress, because the Constitution has left all this to the State itself."

If any doubt should remain as to the question, it must be eliminated by a passage of Alexander Hamilton's explanation of the Constitution. Hamilton, who was hardly a State's righter, analyzed for the people of New York the question of which government should prescribe qualifications for voters in Federal elections. While the passage refers to property qualifications, it is equally applicable to all other qualifications which might be required. Writing of the power to set qualifications for electors, Hamilton stated:

"But this forms no part of the power to be conferred upon the National Government. Its authority would be expressly restricted to the regulation of the times, the places, the manner of elections. The qualifications of the persons who may choose or be chosen, as has been remarked on other occasions, are defined and fixed in the Constitution, and are unalterable by the (national) legislature."

In Virginia, Patrick Henry suggested that article 1, section 4, might place in the hands of Congress power to establish qualifications for electors and elicited this reply from Governor Randolph:

"As the electors of the Federal Representatives are to have the same qualifications with those of this State legislature—or, in other words, as the electors of the one are to be electors of the other—this suggestion is unwarrantable, unless he (Henry) carries the supposition further, and says that Virginia will agree to her own suicide. * * *"

The necessary conclusion to be drawn from this testimony by Madison, Hamilton, Governor Randolph, and others is that so long as laws must be made by men, citizens of States might just as well rely for local regulation upon their State legislature. In their wisdom, proven by our 173 years of experience with the Constitution, the authors of that document made just such a division in control of the franchise in article I, sections 2 and 4.

In 1842 Congress first exercised its power under article I, section 4, by providing that elections of Members of the House of Representatives should be by districts rather than at large. The several States at that time employed varying methods of election, and a heated controversy accompanied consideration of the legislation. Proponents of congressional district-vote legislation maintained that some States were using their power to hold at-large elections for Representatives to insure that the State's majority party would have great bloc-voting power in the House of Representatives. Therefore, they said, it was time for Federal action to remedy the situation. A great many statesmen objected to the inference that Congress was more competent than the State legislatures to handle the problem. One of these men, Mr. Nathan Clifford, of Maine, made a rather pointed suggestion to a Congressman from New York who favored Federal action. Asking the question why the States needed help from the Federal Government, Clifford said:

"Why? Because the legislation of the States is unwise, in the opinion of a majority here. This is the creature arraigning and condemning the creature. Are not the people of New York, or of any other State, as competent as the members of this House to judge as to which system will best promote their interest and prosperity? If the gentleman thinks otherwise, let him go home and promulgate that doctrine among the people, or in the legislature, and see how many votes he will get to sustain him in the sentiment; and perhaps hereafter, he

will be more competent to decide as to their wishes upon the point in dispute." (Congressional Globe, 27th Cong., 2d sess., 350 appendix (1842).) Mr. Clifford's remarks would seem to be applicable to the voter-qualification legislation currently under consideration.

In the question whether Congress, under its power to regulate the manner of elections can compel States to elect Representatives by districts, the only power designated by the Constitution is found in article I, section 4. There is no express reservation of power to the States. The power to determine qualification of electors is expressly reserved to the States in article I, section 2. Therefore, an argument which holds that Congress has power to require district elections for Representatives is not authority for the contention that Congress has power to set qualifications for electors.

Despite the fact that there was a tremendously stronger case for Congress to require elections by districts than there is for Congress to establish voter qualifications, the district voting law was seriously challenged. For a summary of objections to the district voting law, see Paschal, "The House of Representatives: 'Grand Depository of the Democratic Principle'." The results of the constitutional controversy indicate that Congress itself had little faith in its authority to pass the district-vote legislation, for although Congress had the power to deny seats to unqualified Members, under article I, section 5, of the Constitution, Members from four States were seated in the following session, despite the fact that they were elected at large. Georgia, Mississippi, Missouri, and New Hampshire refused to elect Representatives by districts; but their Representatives were seated, nonetheless. New York and Ohio, although they decided to vote by the district method, passed resolutions which denied the power of Congress to require that form of election. And even though the district-vote requirement remained on the books for almost 90 years, Congress never denied seats to Representatives elected at large. Thus, the first attempt by Congress to expand its power in the field of election control produced results which can scarcely be comforting to the proponents of Senate bill 2750.

In the wage of the Civil War, Congress launched an effort to enact legislation which would secure to all the newly-freed slaves the right to vote, as well as other civil rights. Some insight into the propriety of this type of legislation is revealed by the fact that most of it was either held unconstitutional or was repealed within 24 years. You may be interested in an account of the bad administration of the "Enforcement Act" contained in U.S. News & World Report, February 19, 1960, pages 45–46. But some of the laws, notably those prohibiting officials of government from discriminating on the basis of race or previous condition of servitude, were held constitutional. It is important to note that the Supreme Court, even as it upheld the newly created Federal power to act in the area of voting rights, found occasion to specify that the rights protected were the rights of qualified voters. I reemphasize that a qualified voter is one who has "the qualifications requisite for electors of the most numerous branch of the State Legislature."

Thus, in *Ex parte Yarbrough*, 110 U.S. 651, at page 663, a unanimous Court, speaking in 1884, acknowledged that the States "define who are to vote for the popular branch of their own legislature, and the Constitution of the United States says the same persons shall vote for Members of Congress in that State. It adopts the qualifications thus furnished as the qualification of its own electors for Members of Congress."

To the same effect is *Wiley* v. *Sinkler*, 177 U.S. 58 (1900).

In *Guinn* v. *United States*, 238 U.S. 347, decided in 1915, the question was the validity of a combined literacy test and "grandfather clause" under the 15th amendment. In the course of its opinion, the Court said:

"No time need be spent on the question of the validity of the literacy test considered alone since as we have seen its establishment was but the exercise by the State of a lawful power vested in it not subject to our supervision. * * *"

In *United States* v. *Classic*, 313 U.S. 299, in 1941, the Court held that primary elections are an integral part of national elections, and therefore fall within the realm of some Federal control. But in referring to the right of citizens to vote, the Court did not neglect to stipulate that the right belongs to qualified voters:

"The right of qualified voters to vote in the congressional primary in Louisiana * * * is thus the right to participate in that choice (of a Congressman)."

In the same opinion, the Court, in passing upon a law making it a crime to discriminate against a prospective voter, stated: "So interpreted, section 20 applies to deprivation of the constitutional rights of qualified voters to choose representatives in Congress."

My only purpose in referring to the language of the decisions in these cases is to demonstrate that the U.S. Supreme Court has always, either expressly or impliedly, recognized that the qualification of electors is a matter separate and apart from the time, place, and manner of an election. Furthermore, the Court has always recognized the power, vested in the States by the Constitution, to set their own voter qualifications within the limits of the 15th and 19th amendments. It would be impossible to note all the occasions on which the normal interpretation has been placed upon the two sections of article I. However, it is interesting to note that "the U.S. Constitution," "text with analytical index," presented by Mr. CELLER, chairman of the House Committee on the Judiciary, carries a heading, "Electors for Members of the House of Representatives—Qualifications of." There, reference is made to article I, section 2; but no mention is made of section 4. (H. Doc. No. 206, 87th Cong., 1st sess., 1961.)

Before leaving article I, sections 2 and 4, I should like you to consider the following sentence, and place your own interpretation upon its words. The sentence is: "Congress shall control the time, place, and manner of holding elections for Senators and Representatives, but the qualification of those who vote shall be determined by the States."

This is precisely what the U.S. Constitution provides, and I submit to you that there is only one interpretation which may be placed on those words.

Let us turn now to a consideration of the power of Congress under the 14th and 15th amendments; and first let us deal with a preliminary question.

The bill under consideration is avowedly aimed at prevention of racial discrimination in fixing the right of individuals to vote in Federal elections. Therefore, if the 14th amendment did not have as one of its purposes the elimination of this discrimination, S. 2750 may not be passed under the authority conferred on Congress by that amendment. I shall not impose on your patience by reading the text of the amendment. However, I should like to urge the Congress and the courts to adopt a practice of carefully considering the specific language of the Constitution and its amendments, every time they rely upon them. There should be no doubt that the 14th amendment did not have, as one of its purposes, the elimination of racial discrimination in voting.

With regard to the first section of the amendment, the Supreme Court, in 1874, in *Minor* v. *Happersett*, 88 U.S. 162, held:

"It is clear, therefore, we think, that the Constitution has not added the right of suffrage to the privileges and immunities of citizenship as they existed at the time it was adopted."

In *Terry* v. *Adams*, 345 U.S. 461, Mr. Justice Frankfurter stated:

"The 15th amendment, not the 14th outlawed discrimination on the basis of race or color with respect to the right to vote."

This case history strongly indicates that, whatever may be the current trend of decisions, the 14th amendment was not adopted for the purpose of prohibiting racial discrimination in respect to the right to vote. If that had been the effect of the 14th amendment, there would have been no need for passage of the 15th amendment. It has been accurately stated that section 2 of the amendment was adopted because it was impossible to get the States to surrender their power over the franchise. Therefore, the authors of the amendment proposed, and secured, adoption of a provision which would decrease a State's representation in the event of the State's passage of discriminatory voting laws. In any event, that section of the amendment provides its own penalty for its violation, so that no additional provision by Congress would be authorized.

Thus far in the discussion of the 14th amendment, I have endeavored to show that it was not intended to authorize any general legislation by Congress concerning voting rights. This is true, I submit, because section 1 of the amendment does not concern voting rights, and section 2 prescribes its own penalty for failure to observe its provisions. But I have not gone into great detail on the point, because now I shall establish that, even if the 14th amendment does authorize some congressional legislation as to voting rights, it does not extend authority to enact the provisions of S. 2750.

The references in S. 2750 to the 14th and 15th amendments are to the sections which provide that Congress shall have power to enforce the articles by appropriate legislation. While it is true that these clauses confer on Congress rather broad power, it is also true that there is a limit to this power. Surely no one would argue that the clauses authorize Congress to enact legislation directly contrary to the intent of the two amendments, yet that is precisely what S. 2750 would do if it were enacted. The 15th amendment to the U.S. Constitution provides that "the right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude—

"The Congress shall have power to enforce this article by appropriate legislation."

It will be seen that if the equal protection, due process, and privileges and immunities clauses of the 14th amendment are relied upon as authority for the proposed legislation, the authority of Congress to act pursuant to these clauses is governed by the same principles as those which govern the power of Congress under the 15th amendment. In other words, since the avowed purpose of the bill is to prevent racial discrimination, the power of Congress under the first section of the 14th amendment is the same as the power of Congress under the 15th amendment.

An examination of the power of Congress to enact laws under these two amendments is in order. In the Civil Rights cases, the Supreme Court in interpreting the 14th amendment held that "the legislation which Congress is authorized to adopt in this behalf is not general legislation upon the rights

of the citizen, but corrective legislation, that is, such as may be necessary and proper for counteracting such laws as the States may adopt or enforce, and which, by the amendment, they are prohibited from making or enforcing. * * *"

We should consider also *United States* v. *Harris*, 106 U.S. 629 (1883), in which the Court said, "when the laws of a State recognize and protect the rights of all persons, the (14th) amendment imposes no duty and confers no power upon Congress. * * *"

Similarly, the Supreme Court has said, in *United States* v. *Reese*, 92 U.S. 214, in 1876, that the 15th amendment does not confer authority "to impose penalties for every wrongful refusal to receive * * * (a) vote * * * (but) only when the wrongful refusal * * * is because of race, color, or previous condition of servitude. * * *"

Or, phrased in another manner, the 15th amendment only confers on Congress authority to penalize State action under color of laws which States are constitutionally prohibited from making or enforcing.

The cases from which the two preceding passages are taken were decided in 1876 and 1883 by two courts intimately familiar with the purposes sought to be accomplished by the 14th and 15th amendments. In the 1876 *Reese* decision, the Chief Justice was Morrison R. Waite; associates were Clifford, Miller, Field, Bradley, Swayne, Davis, Strong, and Hunt. The *Civil Rights* cases were decided 7 years later with the same Chief Justice on the bench, and the following associates: Miller, Field, Bradley, Harlan, Woods, Matthews, Gray, and Blatchford. The opinions set forth relatively simple tests which must be applied in determining the power to be exercised by Congress under the amendments. It is therefore proper to examine S. 2750 in the light of these requirements.

Stated simply, the purpose which is sought to be accomplished by the bill is the outlawing of State literacy tests, and, incidentally, State-required poll taxes. Therefore, under the rules set forth by the Supreme Court, if the State literacy tests and poll taxes are prohibited by the 14th or 15th amendment, S. 2750 is a proper exercise of the power of Congress. But if these State laws are not prohibited by the Constitution, Congress lacks the power necessary to enact S. 2750.

Literacy tests required by States of prospective voters have been repeatedly upheld. I have referred already to *Lassiter* v. *Board of Supervisors*, 360 U.S. 45 (1959). Other decisions are *Williams* v. *Mississippi*, 170 U.S. 213 (1898), and *Williams* v. *McCully*, 128 F. Supp. 897 (W.D. La. 1955). In the Lassiter case, the Supreme Court considered a North Carolina statute which provided that every person presenting himself for registration should be able to read and write any section of the Constitution of North Carolina in the English language. In pronouncing the test a valid exercise of the State's power, as I have said, Mr. Justice Douglas, writing for a unanimous Court, held that "in our society * * * a State might conclude that only those who are literate should exercise the franchise."

In other words, the States are not precluded by any clause of the Constitution or its amendments from making such laws. Since Congress is restricted from making laws in the premises except where States have made laws which they are "prohibited from making or enforcing," it follows that Congress has no power to enact a law controlling this situation.

Of course, it is not contended that a State law which provides an unreasonable or incomprehensible test, or a test that is unfairly administered, is constitutional. Such laws have been declared unconstitutional by the Supreme Court. The important point is that the Court, not Congress, held the laws unconstitutional. Congress has no authority to declare a broad range of State laws unconstitutional by enacting its own conflicting law.

Poll taxes, which also would presumably be eliminated by S. 2750, have always been sustained as a constitutional exercise of a State's power. Therefore, there could be no authority under the 14th or 15th amendment for Congress to enact a law eliminating this valid exercise of State power.

As might be supposed from this discussion, the constitutional basis of the States' power to establish voter qualifications is so well established that one objective reporter has stated in 3 Race Relations, Law Reporter, page 390: "It would seem, therefore, that the States are free to establish any requirement that they deem wise, as long as these requirements are not discriminatory nor based on sex, race, color or previous condition of servitude. As a consequence, voting rights may, and often do vary widely from State to State."

In fact, an annotated volume of the Constitution prepared for the Legislative Service of the Library of Congress by Professor Corwin states that "the right to vote intended to be protected refers to the right to vote as established by the laws and constitution of the State; subject, however, to the limitation that the Constitution in article I, section 2, adopts as qualifications for voting for Members of Congress those qualifications established by the States for voting for the most numerous branch of their legislatures."

This statement appears in the section of the treatise dealing with the 14th amendment and would seem to apply with equal force in questions dealing with the 15th amendment. It would be difficult to make a statement which more completely denies to Congress the power necessary for the enactment of S. 2750.

For a conclusive expression of the position of the States with regard to the question, it is necessary only to look to State constitutions and laws. All the States require that each voter must be a U.S. citizen, and all States set a minimum age requirement. Practically all States prohibit idiots, insane people, and convicted felons from exercising the franchise. A substantial number of the States withhold the right to vote from paupers. In addition, 19 States require some form of literacy test. It is error to assume that all or most of these 19 States are Southern States. Arizona, California, Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New York, Oklahoma, Oregon, Washington, and Wyoming all require some form of literacy test.

Laws governing the right to vote have been enacted, amended, contested in State courts, and tested by long experience by the citizens of the several States since the formation of the Nation. It would be a constitutionally indefensible act for Congress to assume the duties so long exercised by the States.

It cannot be successfully contended that the Members of Congress know more about proper qualifications for voters in any given State than do the members of that State's legislature. It was realization of this fact which led the authors of our Constitution to leave the problem of voter qualification to the States.

I do not believe that proponents of the pending legislation would rely upon recent civil rights legislation as precedent for the constitutional soundness of their proposed measure. The similarities are few, and the dissimilarities are striking. Nevertheless the possibility of such a comparison being made compels me to point out the fallacy in that line of reasoning.

I will assume arguendo that the civil rights legislation passed in 1957 and 1960 is constitutional. This is quite an assumption, but even if each phrase of that legislation were completely beyond challenge as an exercise of congressional power, a decision as to its constitutionality would offer no shred of support for the constitutional validity of S. 2750. The reason is that S. 2750 deals with the qualification of voters. In the Civil Rights Acts of 1957 and 1960, great respect is accorded, so far at least as the language of the act is concerned, State laws governing the qualification of voters. Even when the law provides for the appointment of Federal referees to control procedures which have been administered by the States for the better part of two centuries in the past, the language is clear that State qualifications are to be applied by those referees.

By the words of its opening provision, the act is applicable to "all citizens of the United States who are otherwise qualified by law * * *" to vote. Following provision for the appointment of a Federal referee, Congress provided that a person discriminated against would be entitled to an order authorizing him to vote if "he is qualified under State law to vote." Subsequently in the same section, it is provided that "the Court, or at its direction the voting referee, shall issue to each applicant so declared qualified a certificate identifying the holder thereof as a person so qualified."

And finally it is expressly stated that "the words 'qualified under State law' shall mean qualified according to the laws, customs, or usages of the State * * *."

From this brief examination of the Civil Rights Act, which on its face accepts State requirements as to voter qualification, it is apparent that the act offers no inference of support for S. 2750, which would supplant State laws as to voter qualification.

Thus far in this discussion of the right to vote in Federal elections, nothing has been said with regard to the right to vote for the President and Vice President of the United States. This is because the right to vote for these offices is so clearly a matter of State concern that no convincing argument to the contrary can be advanced. With regard to the selection of the electors who, in turn, elect a President and Vice President, the Constitution provides:

"Each State shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress. * * *"

The words "in such manner as the legislature thereof may direct" are conclusive in determining authority for control of presidential elections. Thus in 1892 it was held, in *McPherson* v. *Blacker*, 146 U.S. 1, that the State legislatures may provide for election of presidential electors at large, or the election may be by districts, or the State legislatures may choose electors as they see fit. The same authority would apply in the setting of qualifications for voters. The argument for congressional control is insupportable, since the only power given Congress by the Constitution in this area is to "determine the time of choosing the electors, and the day on which they shall give their votes. * * *" In an article published in the 1961 American Bar Association Journal, a member of the New York bar states that "there is a clear distinction between the right to vote for a presidential elector and the right to vote for a member of Congress. The former is a right granted by the individual State. * * *"

The author goes on to point out that although the right to vote for members of Congress is a federally derived right, it is within the power of each State to prescribe suffrage qualifications. It is well established that suffrage requirements, both for elections of Members of Congress and for voters in presidential elections, are determined by the individual States, subject only to the restriction of the 15th and 19th

amendments. If suffrage requirements prescribed for these Federal elections meet the requirements of these two amendments, and the Supreme Court has held that both the literacy test and the poll tax do, there is no power in Congress to revise these requirements and make them conform to a national standard.

I have endeavored to prove that Congress lacks authority to enact the proposed legislation, S. 2750. In so doing, it is not my purpose to detract from the powers given Congress in the exercise of its proper powers by fixing responsibility for solution of local problems at the State level. Surely the people of my home State, Virginia, may petition their State government for redress if present State legislation is unsatisfactory. I submit that Jefferson, Madison, Randolph, Henry, Washington, and other statesmen of their day would not hold Virginia incompetent to solve her own problems within the Commonwealth. In a like manner, statesmen of the present day should acknowledge the competence of State legislatures to solve problems existing within the several States. This, as I understand it, was the purpose in establishing a dual system of government under our Constitution.

I do not object personally to the literacy standards prescribed in the proposed legislation. If Virginia, Connecticut, Montana, or California were to adopt those standards, no reasonable protest could be made. But I protest strenuously against the asserted power of Congress to apply those standards to all the States.

In this great land where freedom is cherished, there are those who ardently believe that the elimination of any practice viewed by them as a social evil is an end which justifies the means. They have no fear of unauthorized Executive orders, unconstitutional laws, or judicial amendments to our Constitution. To them I say the greatest evil the world could know would be the destruction of this Nation. Let us work for social reform, let us seek perfect justice—but in so doing, let us not resort to practices which in the hands of would-be tyrants could be as ready tools for the suppression of liberty as their proponents of today find them to be in what they consider the extension of liberty. Any device that avoids the Constitution can avoid it for the purpose of withdrawing privileges as readily as it can avoid it to grant them. The first President of our country, mindful of this disposition of men to shake off the restraining bonds of the Constitution when the situation seemed to demand it or make it politically expedient, said in his Farewell Address:

"If, in the opinion of the people, the distribution or modification of the constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the Constitution designates. But let there be no change by usurpation; for though this in one instance may be the instrument for good, it is the customary weapon by which free governments are destroyed. The precedent must always greatly overbalance, in permanent evil, any particular or transient benefit which the use can at any time yield."

The provisions of S. 2750 may in the minds of some offer a transient benefit, but the precedent, if established, will eventually and inevitably operate to the detriment of the Nation.

That concludes the very able statement of the former Attorney General, Frederick T. Gray.

I sincerely hope that these remarks of the Honorable Frederick T. Gray will not fall, so to speak, on deaf ears.

Mr. President, one of our earliest Virginians—and one of our greatest—Thomas Jefferson, combined a high regard for the integrity of the individual and his education with a corresponding regard for the sovereignty of the individual States. Jefferson, as most Senators know, founded the University of Virginia at Charlottesville. I would like to quote several of Jefferson's remarks on the subject of education:

If a nation expects to be ignorant and free in a state of civilization it expects what never was and never will be. The functions of every government have propensities to command at will the liberty and property of their constituents. There is no safe deposit for these but with the people themselves; nor can they be safe with them without information. (Letter to Colonel Yancey, Monticello, Jan. 6, 1816. Writing, p, 517, Washington edition.)

And further:

Above all things, I hope the education of the common people will be attended to; convinced that on their good sense we may rely with the most security for the preservation of a due degree of liberty. (Letter to James Madison, Paris, Dec. 20, 1787, ibid., IV, p. 480.)

And finally, in a letter of April 24, 1816:

Enlighten the people generally and tyranny and oppressions of body and mind will vanish like evil spirits at the dawn of day. Although I do not, with some enthusiasts, believe that the human condition will ever advance to such a state of perfection as that there shall no longer be pain or vice in the world, yet I believe it susceptible of much improvement, and most of all, in matters of government and religion; and that the diffusion of knowledge among the people is to be the instrument by which it is to be effected. (Letter to P. S. du Pont de Nemours, Poplar Forest, Apr. 24, 1816, writings, X, p. 25. Ford edition.)

Last week, Mr. President, I made an extended speech on the subject of the literacy test bill, in which I discussed at length my objections to this proposal. I shall not at this time repeat what I said in that speech, but I must reiterate that the literacy test bill is political in its inception and scope, and is neither constitutional nor otherwise in the public interest.

The establishment of an arbitrary sixth grade voter qualification, we are told, would increase the percentage of voting Negroes. I seriously question that this objective would be fulfilled by the enactment of the legislation now before us.

If, for example, a voting registrar were inclined to deny registration to Negroes, he could have no better instrument for the accomplishment of this nefarious purpose than a law establishing the sixth grade as irrebuttable evidence of literacy.

Such a registrar could legally deny "automatic" registration to all Negroes unable to produce documentary evidence of a sixth grade education. Imagine also, Mr. President, the difficulties which any citizen would encounter in producing for a Norfolk voting registrar documentary evidence of having completed the sixth grade in a Chicago public school. Negroes unable to produce such evidence—and there will be many in this category—could then be given literacy tests which the Attorney General himself would be unable to pass.

The registrar might reason, humanly, though I admit improperly, that if the Congress can pass an unconstitutional statute, he himself can administer it in such a way as to frustrate the statute's objective.

As the senior Senator from Virginia [Mr. BYRD] pointed out yesterday, the passage of the literacy test bill would create many secondary problems. Suppose, for example, a person had attended a Government school overseas that was operated for military dependents. The provisions of the bill—although they would cover Spanish-speaking Puerto Ricans— would not cover him. Furthermore, there are many schools which have no grades.

I would not condone discrimination against anybody if this bill should pass. However, the proposal now before the Senate would give a registrar looking for a tool with which to discriminate just what he needed to accomplish his purpose.

I do not mean to suggest, Mr. President, that voting registrars in Virginia, or, for that matter, in any Southern State, would violate the law and the Constitution by denying to any citizen the right to vote because of race or color.

Virginia, incidentally, was given a clean bill of health by the U.S. Civil Rights Commission.

For the reasons I have stated, I am unqualifiedly opposed to S. 2750.

If, as alleged by the proponents of the pending bill, there are registrars in the South who discriminate against nonwhite citizens, ample remedies already are provided by the United States Code. So far, no one in the current debate has successfully denied the allegation that the Constitution leaves to the States the sole jurisdiction to determine the qualification of its electors, subject only to the limited restrictions spelled out in the Constitution itself. The essence of the claim for favorable consideration of the bill is that the end justifies the means. But this bill violates the rights, not of eight or nine Southern States, but of all 50 States of the Union. And, with all due deference to the distinguished minority leader, who is a copatron of the pending bill, let me remind him that a distinguished Republican President named Dwight D. Eisenhower, whom the minority leader so faithfully and efficiently served for 8 years, said on the steps of our State capitol in Richmond concerning the preservation of States rights:

The Federal Government did not create the States of this Republic. The States created the Federal Government. The creation should not supersede the creator. For if the States lose their meaning, the entire system of government loses its meaning and the next step is the rise of the central-national state in which the seeds of autocracy can take root and grow.

I hope that, after the Senate goes on record tomorrow against imposing cloture, both the majority and the minority leaders will conclude that an adequate provision for national defense, to say nothing of the remainder of the appropriations program, of which no part has as yet been enacted into law, is of more importance to our country than further

debate upon this unconstitutional proposal, and that they will, therefore, agree to drop it.

Mr. HILL. Mr. President, in all the many years the distinguished Senator from Virginia and I have served in this body together, I have never heard the Senator make other than an exceptionally able and compelling speech. I congratulate the Senator from Virginia today for the very fine and excellent address he has given.

Mr. ROBERTSON. Mr. President, I certainly appreciate the kind words of my distinguished colleague.

Mr. HILL. Mr. President, when I spoke on this proposal on the opening day of the debate, I addressed myself at some length to the measure we are considering. At that time I reviewed the history of the writing of the 14th and 15th amendments and the debate which took place when those amendments were brought to the Senate. I explained how different Members of Congress—Thaddeus Stevens of Pennsylvania, at that time the chairman of the Committee on Reconstruction which reported to the House of Representatives the 14th amendment; and that members of the committees, both in the Senate and in the House—made it very definite, very specific, and very clear that neither the 14th nor the 15th amendment in any way affected the right of a State to fix qualifications of voters, with the exception that the 15th amendment imposed the limitation that no person should be denied the privilege of the ballot because of race, color, or previous condition of servitude.

With the exception of that one, single, specific, clear limitation, all powers and rights of the States to fix qualifications of voters were reserved to and remained in the States.

When the question came up on the floor of the House of Representatives, Thaddeus Stevens, who was then the chairman of the Committee on Reconstruction, at that time presenting to the House the proposed 14th amendment to the Constitution, was questioned about the effect of the amendment. He made it very definite and very clear that the amendment in no way restricted or denied or took from the rights and powers of the States to fix the qualifications of voters, as set out in the original Constitution, in section 2 of article I.

In all the debates which took place in the consideration both of the 14th and 15th amendments there was agreement. Thaddeus Stevens, other Members of the House of Representatives—such as Roscoe Conkling, who later became a distinguished Member of this body—Senator Henry Wilson of Massachusetts, and Senator Richard Yates of Illinois, all agreed there was no intent, no purpose, and no language in those amendments which would deny to the States any rights they had had and enjoyed even before the Constitution was adopted to fix, to determine, to set and to prescribe qualifications of electors; with the one single exception of the limitation that a person could not be denied the privilege of the ballot because of race, color, or previous condition of servitude.

Mr. President, I am unalterably opposed to the bill, S. 2750, because, as we in opposition have stated time and again, and as is so clear and definite, it seeks to restrict and to invade the reserved powers of the States to prescribe and to determine the qualifications of their voters. If passed, the measure would constitute a totally unwarranted, unnecessary and unjustifiable invasion of State powers and functions which are secured and reserved to the States by the Constitution.

In fact, these powers and rights the States had even before there was any Constitution. As has been brought out time and again on this floor, all the rights and powers reposed in the Thirteen Original States, since they had won their independence through the Revolutionary War from the British Crown. The Federal Government has only those rights and those powers which the States themselves freely and of their own accord delegated and granted to the Federal Government in the Constitutional Convention.

Mr. President, the Federal literacy standard which the proposed measure would impose on the States would supplant any State laws which are inconsistent with such a Federal standard. In other words, it would be a clear invasion of the rights of the States to prescribe the qualifications of their voters.

The proposal is unconstitutional, inasmuch as under the Constitution, as I have stated, Congress has no such power over the States.

Mr. President, the pending measure is an attempt to amend the Constitution by a mere statute. It is an attempt by a mere statute to take from the States the rights and powers which they have enjoyed from the very first day the Constitution was written and became effective. It is an attempt to take away the rights of the States to fix the qualifications of their voters.

We who oppose this measure do so because we are deeply moved by our concern and our desire and our willingness to fight for the preservation of the basic, cherished rights of our States to prescribe the qualifications of their electors. These are the rights which the Founding Fathers specifically preserved and secured to our States in the original Constitution.

Mr. HOLLAND. Mr. President, will the Senator yield?

Mr. HILL. I yield to my distinguished friend from Florida.

Mr. HOLLAND. I compliment my distinguished friend from Alabama again, as I have in the past, for the scholarly way he has dealt with this subject.

Mr. HILL. I thank my friend.

Mr. HOLLAND. The Senator has dealt so clearly and so fully with section 2 of article I of the Constitution, and the similar provision in the 17th amendment, that there is nothing more I could say which would add in the slightest measure to his conclusion, which I think is completely sound and cannot be refuted, that the States reserved to themselves exclusively the right to fix the qualifications of voters who would vote for Members of the House of Representatives—that is under section 2 of article I—and who would vote for Members of the Senate—that is under the 17th amendment.

I wonder if the distinguished Senator would allow me to go briefly into another point which may not have been dealt with so conclusively in the debate as the two I have mentioned. I refer to the question of the provisions of the Constitution with reference to the naming of presidential electors. It seems to me in that field the case is even more clear that the States reserved to themselves the full power as to qualification of voters, and that not a word can be found in the Constitution which even seeks to give to the Federal Government any power whatever in that field.

Mr. President, I read from article 2, section 1 of the Constitution, the article relating to executive power, a provision contained in the second paragraph:

> Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress:

Does the Senator see how it would be possible to reserve more clearly to a State, through the functioning of its legislature exclusively, the right to appoint, elect, name or prescribe the machinery for electing its own presidential electors?

Mr. HILL. The provision could not be clearer. It could not be more complete. I call the Senator's attention to the language which follows immediately after the provision he read:

> but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.

The provision at the end of the paragraph ratifies, reaffirms, substantiates, and makes all the more complete what the distinguished Senator from Florida has said. Full and complete power is reserved or given to the States.

Mr. HOLLAND. Mr. President, will the Senator yield further for a question?

Mr. HILL. I yield.

Mr. HOLLAND. I think the Senator is seeking to impress in the RECORD the fact that the States were so jealous of their holding exclusive power with respect to the naming of presidential electors who shall represent them in electing the Chief Executive and the Vice President that the Constitution prescribed that no Senator or Representative or any other person holding any office of trust or profit of the United States could possibly serve as an elector.

Mr. HILL. The members of the Constitutional Convention did not want anyone who was in any way connected with the Federal Government to serve in that capacity. That is what they were attempting to say in the provision to which the Senator has referred.

Mr. HOLLAND. The statement could not have been made clearer.

Mr. HILL. The language could not have been clearer. The provision could not have been stated more specifically or definitely. Is that not correct?

Mr. HOLLAND. The Senator from Florida so believes.

I direct the Senator's attention to the brief statement in the same article that relates to the Congress, and that fixes the

only power—I repeat, the only power—which the Constitution gave to Congress on this question. I read from paragraph 3 as follows:

> The Congress may determine the Time of chusing the Electors and the Day on which they shall give their Votes; which Day shall be the same throughout the United States.

The Senator will agree, of course, that those are the only words found in the Constitution which give to the Congress any power whatsoever relative to presidential electors. Is that not correct?

Mr. HILL. The Senator is absolutely correct. The provisions are so clear that no one could possibly misinterpret, misconstrue, or fail to understand them exactly. The provisions state what they mean and mean what they say.

Mr. HOLLAND. Of course. I noticed with a good deal of amusement—and I am sure the distinguished Senator from Alabama likewise noticed the same thing—that when the learned Attorney General of the United States testified with reference on this bill, he was very careful to say nothing about any specific place where any power was given to Congress to deal with the selection of presidential electors, whereas the Deputy Attorney General—a very learned attorney—when testifying on the poll tax amendment but a few weeks before, said—and I paraphase his statement—that while he felt that an amendment was the best manner in which to proceed, even with reference to voters who would elect the Senators and Representatives, that frankly he was occasioned more trouble when considering electing the presidential electors because he could not see how anything but an amendment would deal with that situation. Does the Senator remember that testimony?

Mr. HILL. The Senator from Alabama indeed remembers the testimony to which the Senator has referred. The Senator is absolutely correct in what he has said. When the Senator from Alabama read the testimony of the Attorney General of the United States given in his personal appearance before the subcommittee of the Judiciary Committee, presided over by the distinguished Senator from North Carolina [Mr. ERVIN], he was really surprised to find that the chief law officer of the U.S. Government had come before a subcommittee of the Judiciary Committee of the Senate and had petitioned that committee, but he could cite no provision in the Constitution, no case, no rule of law, no precedent—not even a statement from any authority on the Constitution—that might sustain his position.

Mr. HOLLAND. Mr. President, will the Senator yield further?

Mr. HILL. I yield.

Mr. HOLLAND. Has it occurred to the Senator as something to be somewhat marveled at that both the Chief Deputy and the Attorney General, in testifying on the poll tax amendment, testified that the constitutional amendment procedure followed in respect to that subject was the preferable way to proceed and that they both approved that course, whereas with reference to the measure now before the Senate, which is so similar, and is considered only a few weeks later, the Attorney General himself testified that the proposed legislation could be attained by mere statute? Did not the Senator think that some miraculous change in the philosophy of the Attorney General had occurred between those two dates?

Mr. HILL. The performance was a very strange and unusual one, in that the Attorney General advocated an amendment to the Constitution, as provided in the Constitution itself, and then took an entirely different and contrary tack on the present measure, which was certainly, to say the least, a very strange, unusual, and unexplainable situation.

Mr. HOLLAND. I thank my learned friend. It seemed to me that it was even more difficult to understand how the learned Attorney General could pay no attention to the question relative to presidential electors when his chief legal officer, now serving him as his Deputy Attorney General—Mr. Katzenbach—had appeared in Congress but a few weeks before to call attention to the fact that the constitutional provisions on presidential electors gave him very great difficulty, and that it seemed to him that nothing but a constitutional amendment could deal with that situation. Does it not appear to the learned Senator that the right hand did not know what the left hand was doing?

Mr. HILL. I can think of no more appropriate illustration than what the Senator has suggested. The right hand did not know what the left hand was doing. I certainly wish to thank the Senator not only for his kind words, but also for the fine contribution that he has made in the Senate today.

Mr. HOLLAND. I thank my distinguished friend. I only wish that I could have contributed as scholarly, erudite, and learned a discussion as the Senator from Alabama has contributed in his two appearances before the Senate on the present subject. I compliment him without any reservation whatever for his having made contributions that will last in the record of the Congress as being unanswerable arguments.

Mr. HILL. I thank the Senator for his most gracious and generous remarks. I particularly appreciate the statement coming from him because I know what a student of the Constitution he is. I appreciate the high authority with which he speaks on all subjects concerning the Constitution and our Government, particularly our dual form of government, and the rights and powers of the States and the place of the Federal Government in our dual system of government.

Mr. President, I am unalterably opposed to S. 2750 because it seeks to further restrict and invade the reserved powers of our States to determine the qualifications of their voters. If passed, this measure would constitute a totally unwarranted, unnecessary, and unjustifiable invasion of State powers and functions that are secured and reserved to the States by the Constitution.

The Federal literacy standard which this measure would impose on the States would supplant any State laws that are inconsistent with this Federal standard. S. 2750 is unconstitutional inasmuch as, under the Constitution, Congress has no such power over the States.

This is an attempt to amend the Constitution with a mere statute to take away from the States the rights which they have enjoyed from the very day the Constitution was written and became effective. It is an attempt to take away their rights to fix the qualifications of their electors. We oppose it because we are deeply moved by our concern and desire and our willingness to fight for the preservation of the cherished rights of our States to prescribe the qualifications of their electors.

I may say that these are rights which the Founding Fathers specifically preserved and secured to our States in the original Constitution.

They are rights which in the past have received great honor and respect.

Anyone who will read Mr. Madison's notes to the Constitutional Convention, the convention which wrote the Constitution, and who will read the notes of the State conventions which ratified the Constitution, cannot escape the very definite and positive conclusion that if the provision of leaving to the States the power to prescribe the qualifications of their electors had not been written into the Federal Constitution, there would not have been any Federal Constitution and there would not have been any Federal Union.

Mr. Madison's notes of the Philadelphia convention, where the Constitution was written, and the notes of the several State conventions, where the Constitution was ratified, show how jealous the States were of this right—the right which insured to them the fixing of the qualifications of the electors in the several States. These notes confirm absolutely that there would have been no Constitution if that right had not been clearly, specifically, and absolutely preserved to the several States.

I emphasize further, based on a declaration by Judge Cooley, one of the greatest authorities on the Constitution in the whole history of our country, that there have always been certain prerequisites to voting. As we know, in some States registration is not permanent. In my State, once a person registers to vote, he does not have to reregister, unless he sees fit to move out of the county in which he has been living. If he moves into another county, he must, in order to vote, reregister in the new county. But if he remains in the county in which he first registered, he need never register again.

I have registered once in my life, and that was when I became 21 years of age. I have never had to go to the trouble or to take any time to register again.

However, some States provide different periods when the voters must register or reregister. We also know that in order to register, a person must go to a particular place where the registration is held. Persons do not register in their own homes; they must go to the courthouse or to some other place designated for that purpose.

As provided by the constitution of Alabama, qualified voters must be 21 years of age, citizens of the United

States, have resided for 2 years in Alabama, 1 year in the county, and 3 months in the precinct or ward, immediately preceding the election.

A qualified voter in Alabama must also be able to read and write in English any article of the Constitution of the United States. He must be of good character and must embrace the duties and obligations of citizenship under the Constitution of the United States and of Alabama. In addition, he must have paid all poll taxes due from him for the last 2 years.

Blind and deaf persons and persons who honorably served in the military service of the United States during hostilities and all persons 45 years of age or older are exempt from the poll tax payment as a prerequisite to voting.

Furthermore, in order to vote, a citizen *must go* to the polling place. He must transport himself to that place. When he gets there, sometimes he must stand in line before he may vote. It may take some time out of a very busy day for him to stand and wait his turn to exercise his right to the ballot and to vote. So, as Judge Cooley makes clear, there are certain prerequisites to voting, and the literacy test in Alabama is one of them.

At the time when the Constitution was being written, in 1787, most of the States—at least 9 of the 13—had spoken, and had fixed, by their own constitutions, the qualifications of those who could vote for the members of their own legislatures.

What were those qualifications? I should like to sum up, briefly, the qualifications which the original States, which brought the Constitution into being, had themselves prescribed for voting.

First, let us look at the small, but great, State of New Hampshire, from which some of the Minutemen, some of our bravest men in the War of the Revolution, came in the early days, and the State which gave us Daniel Webster. Before this debate is concluded, I shall no doubt refer to some of Mr. Webster's great speeches on the Constitution.

The men from New Hampshire fought the battles of the Revolution in order that the Constitution might be born, that the rights of the States might be safeguarded, and, most of all, that the power might reside in the hands of the people, not in a central, arbitrary government. This, indeed, is what the Minutemen died for—the brave and gallant boys from the hills and mountains of New Hampshire.

What were the qualifications in New Hampshire? A voter had to be a freeholder. He had to own property; he had to own real estate; and he had to pay a poll tax.

The next State in the list is the State of the granite hills, the beautiful little State of Vermont, a State whose sons also played a heroic part in the War of the Revolution. When the Constitution of the United States was being drafted, in order to vote in Vermont a man otherwise eligible to vote had—in order to meet the prerequisite—to be a freeholder. He had to own property.

Mr. President, if I may, I wish to advert now to the great Commonwealth of Massachusetts, the State of Samuel Adams, John Hancock, John Adams, John Quincy Adams, Dr. Warren, and other great heroes of the Revolution. In order to vote in Massachusetts, the requirement was that one must own a freehold with an annual income of 3 pounds, or an estate of 60 pounds. One had to be a property owner, in order to vote in Massachusetts.

In the great Empire State of New York, the voter had to be a freeholder of 20 pounds, paying rent of 40 shillings. He had to have a freehold of 100 pounds, in order to vote for State senator. New York seemed to prescribe a greater prerequisite for voting for State senator than for members of the most numerous branch of the legislature, which meant that New York prescribed a greater prerequisite for voting for State senator than was required for voting for a Member of the Federal Congress, because, of course, the qualifications for voting for a Member of the Federal Congress were the qualifications for voting for a Member of the most numerous branch of the State legislature.

In New Jersey, one had to own an estate of 50 pounds; he had to be a property owner.

In Pennsylvania, the voter had to be a State or county taxpayer.

In Delaware, the citizen, in order to exercise the right to vote, also had to be a State or county taxpayer.

In Maryland, the voter had to be a freeholder of 50 acres, or have property worth 30 pounds.

In North Carolina, the voter had to own a freehold of 50 acres in a county, and must have owned it for 6 months before the election. It was also a requirement that the voter must have paid his public taxes. If the citizen had not paid his public taxes, he could not vote. In other words, he not only had to own the property, but he also had to pay all the taxes on the property; and if he was in any way delinquent in the payment of his taxes, he could not vote.

In South Carolina, the voter had to be a freeholder of 50 acres or a town lot, or he had to pay taxes equal to the tax on 50 acres.

In other words, if the voter did not own 50 acres, he must, as a requirement for voting, have paid a tax equal to the tax on 50 acres.

In Georgia, the voter had to own property in an amount of £10, or have a trade as a mechanic, or be a taxpayer.

At that time, we had not moved into the scientific, mechanical, and technological age in which we live today, for even back in that time, in order to be a voter in Georgia, as I have said, one either had to own property in the amount of £10 or had to have a trade as a mechanic. If one had a trade as a mechanic, he would qualify. The third alternative was to be a taxpayer in some other way.

The State of Kentucky was not one of the Thirteen Original States. It was one of the first States to be admitted into the Union, however, after the adoption of the Federal Constitution. It came into the Union in 1792, only 3 years after the formation of the Federal Government. In order to be a voter in Kentucky, a citizen had to be a taxpayer.

In Tennessee, which was admitted shortly thereafter, a voter had to be a freeholder.

Mr. President, these were the qualifications of electors when Kentucky and Tennessee were admitted into the Union, shortly after the adoption of the Constitution.

These were the qualifications the States prescribed respecting their electors, when the Constitution was being drafted in Philadelphia, when the delegates from the States were busy writing that document at the Constitutional Convention.

The delegates to the Constitutional Convention knew what the State qualifications were; and, therefore, when they wrote into the Constitution that the qualifications for electors for Members of the House of Representatives would be the same as those for the electors for the most numerous branch of the State legislatures, they knew exactly what they were doing.

They knew that those qualifications were in the Thirteen States. As we recall, under the original Constitution, Senators were elected by the members of the State legislatures. We also recall that in the 17th amendment, adopted in 1913, which provided for the direct election of Senators, rather than their election by the State legislatures, there was included the same provision, namely, that the qualifications for electors for U.S. Senators should be the qualifications prescribed by the States for electors for the most numerous branch of the State legislatures.

We must recall that in 1787, when the Constitution was written, the States were absolute sovereigns. They had joined in the Declaration of Independence. They had proclaimed their independence of the British Crown. They had fought through eight long, terrible, bloody years to win their independence; and they stood absolutely independent and free from any other sovereignty on this earth. Their own sovereignty was full, complete, and absolute.

So they gathered in Philadelphia in their sovereign capacities, through their delegates, to write the Constitution of the United States. The question was: How much of their sovereignty would they yield to the Federal Government? The Federal Government was not in being; it had no existence; it had no sovereignty. The only sovereignty the Federal Government could have would be such sovereignty as was granted it by the sovereign States of that time.

Anyone who is at all familiar with the history of the writing of the Constitution, anyone who has taken the time to read Mr. Madison's notes on the Constitutional Convention and what transpired in that Convention when the Constitution was being written, knows how jealous were the several States of their sovereignty and how reluctant they were to yield much of that sovereignty to any Federal Government.

Mindful of their sovereignty, zestful and determined insofar as possible to keep within their own hands as much of their sovereignty as they possibly could, and still have a Federal Government adequate to meet the problems which had to be met by a central Federal Government, what did they do? They provided that every State should have two Senators—two Members in this body—no matter how large or how small the State might be, no matter what its industrial development might be, no matter what its financial development or its agricultural development might be. No matter what might be the status of a State in its power, its influence, or its ability to influence other States and other persons in other States, every State in the United States should have equal representation in the Senate; it should have two Senators—its own two Senators. Then, as will be recalled, the delegates to the Convention went one further step, and provided that no State should have its representation in this body reduced or taken away from it without its consent. This meant that no matter how small a State might be, no matter how weak, how ineffective, or how uninfluential it might be, it would have equal representation in this body; it would have two Senators, to serve along with the two Senators of the most powerful, the wealthiest, and the greatest State of the Union.

It was in this spirit of jealous regard for their rights and their determination to secure the primary authority of the States in the government, that the question of qualifications of electors was considered and debated.

When we consult Madison's notes, we find that in the Constitutional Convention there were three schools of thought with reference to the matter of qualifications of electors to vote for Members of Congress.

One school of thought was that the qualifications should be prescribed in the Constitution itself.

The second school of thought felt that the qualifications should be left to Congress: that the Constitution should provide that the Congress should have the power to prescribe the qualifications.

The third school of thought, which, as we know so well, prevailed in the Constitutional Convention, was that the qualifications for the electors should be those fixed by the States for the most numerous branches of the State legislature.

That provision, as we know, is section 2, article I, of the Constitution of the United States.

We find in Mr. Madison's notes, as compiled by Mr. Johnathan Elliott, and published by J. B. Lippincott in Philadelphia in 1907, in volume V, page 385:

> Mr. Gouverneur Morris, of Pennsylvania, moved to strike out the last member of the section, beginning with the words "Qualifications of electors," in order that some other provision might be substituted which would restrain the right of suffrage to freeholders.

In other words, Gouverneur Morris not only wanted the Constitution to fix the qualifications for the electors, but he wanted at least one of those qualifications to be that the elector should be a freeholder, that he should own property. So Gouverneur Morris moved to amend the proposal to write in the qualifications of freeholders.

Mr. Fitzsimons seconded the motion.

Mr. Williamson was opposed to the motion.

Before I read what the different delegates said, I should like to call the attention of the Senate to the committee which proposed the provision in section 2, article I of the Constitution—the section to which I have just referred—which is the section dealing with the qualifications of voters. The committee was termed, in the language of the Constitutional Convention, "the committee of detail."

The committee of detail was composed of Mr. Rutledge, of South Carolina; Edmund Randolph, of Virginia; Nathaniel Gorham, of Massachusetts, who was Chairman of the Committee of the Whole; Oliver Ellsworth, and James Wilson, of Pennsylvania. John Rutledge, as we recall, was offered a place on the first U.S. Supreme Court, and was afterward appointed Chief Justice of the United States. Edmund Randolph, we recall, was George Washington's first Attorney General. Later Oliver Ellsworth was Chief Justice of the United States, and James Wilson was a member of the President's Cabinet.

Where could there have been found at that time in all the world, or where could there be found today or at any other time in all the world, a committee of abler or more distinguished lawyers and students of government, or more capable political draftsmen than the men who constituted the committee which wrote section 2 of article I? Where could a more brilliant galaxy of stars in the field of statesmanship be found than these great lawyers, students of the philosophy of government, students of human nature, men of commonsense and wisdom, who constituted the committee which wrote section 2 of article I?

As I have stated, Gouverneur Morris moved to amend the committee provision leaving to the States the fixing of the qualifications for electors of Members of Congress, so as to require that the electors be freeholders, or so as to make sure that they were property owners before they could vote for Members of the House. Mr. Fitzsimons seconded the motion. Mr. Williamson opposed it. Then Mr. Wilson of Pennsylvania, one of the ablest men who sat in that Convention, rose and made this observation, according to Madison's notes:

> This part of the report was well considered by the committee, and he (Mr. Wilson) did not think it could be changed for the better. It was difficult to form any uniform rule of qualifications for all the States. Unnecessary innovations, he thought, too, should be avoided.

When I quote that language about unnecessary innovations, I come back to my statement of a few minutes ago; namely, that Mr. Wilson and the other delegates who had gathered to write the Constitution knew exactly what qualifications were fixed by their own State constitutions. So when Mr. Wilson was speaking about no innovations, he was, impliedly, at least, making a plea for the qualifications fixed in his own State of Pennsylvania and fixed by the constitutions of the other original States.

Mr. Wilson went on to say:

> It would be very hard and disagreeable for the same persons, at the same time, to vote for representatives in the State legislature and to be excluded from a vote for those in the National Legislature.

All of us have many times been in polling booths to vote. We know that the words spoken by Mr. Wilson not only were true in 1787, but they are just as true today. Can Senators imagine the disorder, the confusion, and the uncertainty that would be thrown around the exercise of a right which is the most sacred right, perhaps, possessed by any American citizen—the right of the ballot—if there were one set of qualifications for electors for Members of Congress, President, and Vice President, and if there were another set of qualifications for electors of State legislatures and State officers?

Mr. President, while I do not believe that the very practical question raised by Mr. Wilson was the controlling one in the drafting of article I, section 2, those men, being men of commonsense, men with a keen, profound knowledge of human nature and the ways of people and of events, were undoubtedly persuaded by the consideration of how impractical it would be to have varying qualifications for the different electors.

After Mr. Wilson made his statement, Gouverneur Morris, the author of the motion, rose. I read further from Madison's report of Gouverneur Morris' statement:

> Such a hardship—this is, being a freeholder or the owner of property, because that is what his motion provided as a qualification—would be neither great nor novel. The people are accustomed to it, and not dissatisfied with it, in several of the States. In some, the qualifications are different for the choice of the Governor and of the Representatives; in others, for different houses of the legislature. Another objection against the clause as it stands is that it makes the qualifications of the National Legislature depend on the will of the States, which he thought not proper.

He was unwilling to recognize this right in the State. Mr. Morris was unwilling that this power should continue to be vested in the State. He wanted it in the Federal Government.

Then Mr. Ellsworth, of Massachusetts, rose and said that he thought the qualifications of electors stood on the most proper footing. Note this language:

> The right of sovereignty was a tender point and strongly guarded by most of the State constitutions. The people will not readily subscribe to the National Constitution if it should subject them to be disfranchised.

He was arguing against Mr. Morris' motion to make the ownership of a freehold a qualification. Mr. Ellsworth added:

> The States are the best judges of the circumstances and temper of their own people.

Note that language. The States—the people back home, the people who gather in the State capitals, the people who go to the ballot boxes back in the hamlets,

the communities, and the crossroads—"are the best judges of the circumstances and temper of their own people." Would anyone dispute that today?

Mr. Butler, a delegate to the Constitutional Convention, made this significant statement:

> There is no right of which the people are more jealous than that of suffrage.

Thus emphasizing, fortifying, and reaffirming the idea that the determination of the qualifications of electors should remain in the hands of the people of the States.

After all, it is only by means of the right of suffrage that the people are able to maintain their power, their authority, their sovereignty over the government. If the people's right of suffrage were to be taken from them, no longer would there be government of the people, by the people, and for the people.

I shall read from the statement of Mr. Dickinson. He was a gentleman of very conservative views; but I think we should have his views, since we are studying this whole subject. Mr. Dickinson had a very different idea with regard to the tendency toward vesting the right of suffrage in the freeholders of the country. He considered them as the best guardians of liberty, and the restriction of the right to them "as a necessary defense against the dangerous influence of those multitudes, without property, and without principle, with which our country, like all others, will in time abound." He very strongly favored the writing in of a qualification that electors must be property owners.

In reply to Mr. Dickinson, Mr. Ellsworth had this to say:

> How shall the freehold be defined? Ought not every man who pays a tax vote for the representative who is to levy and dispose of his money? Shall the wealthy merchants and manufacturers who will bear full share of the public burden be not allowed a voice in the imposition of them? Taxation and representation ought to go together.

On the question as to whether a freehold or property ownership should be prescribed as a qualification, Mr. Madison, being a very wise and very practical man, expressed the view that that might well be determined upon the question as to how such a qualification would be received back in the States.

The men who sat in the Convention, who engaged in the debates in the Convention, who engaged in the actual drafting of the Constitution, knew best of all, knew far better than any who should come after them, what their intent and purposes were in writing the Constitution. We would never have had any Federal Constitution, we would never have had a Federal Government, if the view had not prevailed that the qualifications of the electors should be left to the several States; in other words, that section 1 of article II should be adopted and written into the Constitution just as it had been recommended by the committee and as it was adopted and written into the Constitution.

Mr. President, in the 60th Federalist paper, Mr. Hamilton defended the Federal Constitution against the charge that it favored the rich. That charge had been made against the Constitution. His remarks on this subject are very pertinent to the issue before us. I now quote from Mr. Hamilton.

> The truth is—

He wrote—

> that there is no method of securing to the rich the preference apprehended, but by prescribing qualifications of property either for those who may elect or be elected. But—

Went on Mr. Hamilton—

> this forms no part of the power to be conferred upon the National Government.

Mr. Hamilton added:

> Its authority would be expressly restricted to the regulation of the times, the places, the manner of elections. The qualifications of the persons who may choose or be chosen, as has been remarked upon other occasions, are defined and fixed in the Constitution, and are unalterable by the legislature.

Alexander Hamilton's words will be clear to anyone who takes the time to read them. He said that the Federal Government cannot invade that right; that it is a right left exclusively to the several States.

What happened? The Committee on Detail, on August 6, 1787—and, as I have stated, the Committee on Detail was the special committee for the drafting of the Constitution—recommended that—

> The qualifications of the electors shall be the same, from time to time, as those of the electors of the several States, of the most numerous branch of their own legislatures.

This, of course, is the provision of section 2, article I, of the Constitution.

What happened? When that committee made the recommendation, a motion was made to prescribe in the Constitution the qualification of possessing freehold; and that motion was voted down. What was the vote on that motion? The motion was rejected by a vote of 7 to 1. Only one State voted for the motion, and that was the little State of Delaware. Delaware voted "aye." New Hampshire, Massachusetts, Connecticut, Pennsylvania, Virginia, North Carolina, and South Carolina voted "no."

The thinking of the men who wrote our Constitution is found not only in the debates held in the Constitutional Convention, but also in the writings of those who participated in it.

We know that Thomas Jefferson was not a member of the Constitutional Convention that wrote the Federal Constitution, because he was at that time our Minister to France; but although he was out of the country, he was in very close touch with the delegates to the Convention. We know that he had no closer ally or friend than James Madison, father of the Constitution.

We speak of Washington as the Father of our Country—which he was. I think we properly speak of James Madison as the father of the Constitution. I think we may well say that Thomas Jefferson was the great prophet of American democracy.

In Mr. Jefferson's draft of a proposed constitution for Virginia, which was written in June 1776, while Mr. Jefferson was serving as a Member of the Continental Congress in Philadelphia, Jefferson suggested in his draft:

> All male persons of full age and sane mind, having a freehold estate in (one-quarter of an acre) of land in any town or in (25) acres of land in the county, and all persons resident in the Colony who shall have paid scot and lot to Government the last (2 years) shall have right to give their vote for the election of their respective representatives.

He proposed this language for the Virginia constitution; but, on the other hand, when it came to the writing of the Federal Constitution, he opposed any provision of this sort in the Federal Constitution. He knew that the States should fix the qualifications for the voter.

I quoted a little while ago from Alexander Hamilton.

As we know, one of the greatest minds of that period, beginning with the War of the Revolution and coming on down through the Articles of Confederation, and the drafting of the Federal Constitution, and even in the administration of the Federal Government in the early days of George Washington, was the brilliant mind of Alexander Hamilton. It will be recalled that Hamilton was Secretary of the Treasury in President Washington's first Cabinet.

Perhaps this country has never known a more penetrating or more incisive mind than that of Alexander Hamilton. As we know, Hamilton was not a democrat, and I am using the word with a little "d." He did not believe in, he did not have faith in, the capacity of the people to govern themselves. He believed in a strong Central Government. He thought it was necessary to have central, arbitrary power concentrated in the Government in Washington. He went so far that many speak of him as a monarchist. Certainly we know that in the plan which he submitted to the Constitutional Convention he provided for life tenure for the Chief Executive, the President of the United States. As I recall, he provided for certain hereditary rights for many things that were to be found under the arbitrary, central power of the governments of the kings and monarchies of the nations of Europe.

Mr. Hamilton in writing about the Constitution—and we must remember what his feelings and his views were—had this to say in chapter 52 of the Federalist:

> I shall begin with the House of Representatives * * * The first view to be taken of this part of the Government, related to the qualifications of the electors and the elected.

When he referred to "the qualifications of electors," he went straight to the very question we are discussing here today, because he knew what the whole question involved, so far as determining what our Government was, and what it would be down through the years. He knew it went to the whole question of our dual system of government, the whole question of the structure of our Government, of a divided authority between the Federal Government and the

State governments. The brilliant Hamilton knew what he was talking about. He went on to say:

"Those of the former"—that is the House of Representatives—"are to be the same"—that is, the qualifications are to be the same—"with those of the electors of the most numerous branch of the State legislatures. The definition of the right of suffrage is very justly regarded as a fundamental article of republican government. It was incumbent on the Convention, therefore, to define and establish this right in the Constitution."

In other words, the Constitution had to state what these qualifications were, and by whom they would be prescribed. Hamilton then continued:

> The provision made by the Convention—

That is the provision now written into section 2 of article I—

> appears, therefore, to be the best that lay within their option. It must be satisfactory to every State, because it is conformable to the standard already established or which may be established by the State itself.

Thus the leading Federalist, the outstanding Nationalist, in the days of the beginning of our Government proclaimed in his writings in the Federalist that this method must be satisfactory to the States, because under the Constitution as written it was left to the States.

Again, in the 87th Federalist, the question was asked. And Hamilton replied to his own question:

> Not the rich, more than the poor; nor the learned, more than the ignorant; or the haughty heirs of distinguished names, more than the humble sons of obscurity and unpropitious fortune. The electors are to be the great body of the people of the United States. They are to be the same who exercise the right in every State of electing the corresponding branch of the legislature of the State.

In the 59th Federalist we find this significant statement:

> Suppose an article has been introduced into the Constitution empowering the United States to regulate the elections for the particular States, would any man have hesitated to condemn it, both as an unwarrantable transposition of power and as a premeditated engine for the destruction of State governments?

In the 60th Federalist, Alexander Hamilton expressed fear that elections might be manipulated in the interest of the "rich and the well born." The only way in which this might be done, he wrote, would be by prescribing property qualifications either for those who may elect or for those who may be elected.

But he added, this forms no part of the power to be conferred upon the National Government.

As I have said, when the Founding Fathers gave up a portion of the sovereignty of the States to the Federal Government, they did so with a great deal of trepidation, and they did so only with the firm conviction that it was unity alone—unity of purpose, unity of resolve, and unity in their mutual dedication to human liberty that could enable the people of our country to long endure and abound in the joy of the priceless legacy which a heroic young Nation had won at the cost of much sacrifice and loss of life.

Mr. President, this measure, the embodiment of S. 2750 violates the basic and fundamental principles of the whole philosophy of our American Government which only with trepidation were agreed to by the Founding Fathers. This measure would establish qualifications for voting in derogation of the sovereignty reserved by the Founding Fathers to States alone.

Consider, for example, the provision in this bill that a sixth grade education in the Spanish language shall qualify a voter. This provision is typical of the entire bill. I have no doubt that the framers of the Constitution would find it utterly inconceivable that the Senate of the United States would ever seriously consider a measure that outlaws a State requirement that its electors be literate in the official language of the State and Nation.

At this momentous hour in the history of America and of the world, the objective for which we must strive with all of our fervor and determination is unity.

Let us be done, Senators, with this measure before us, which can only distract and misguide our people, which separates and divides us, and which opens the way for the destruction of fundamental rights of the States and the fundamental rights of the people of all the United States.

Much has been said in this debate against the proposal to invoke cloture on this measure, but there is one interesting matter I want to call to the attention of the Senate. When we were debating the Atomic Energy Act in 1954—and I happened to be one of those who engaged in the effort to modify and change that act, to show how wrong that act was in the form that it first came before the Senate—an effort was made to invoke cloture. The CONGRESSIONAL RECORD, volume 100, part 9, page 11942, reads as follows:

> On July 26, 1954, at 11 o'clock a.m. (the Senate having met at 10 o'clock a.m.), the Vice President, in accordance with the rules, laid before the Senate the foregoing cloture motion and directed the clerk to call the roll. Upon the appearance of a quorum, the Vice President submitted to the Senate the question: Is it the sense of the Senate that debate shall be brought to a close?
>
> The yeas and nays, being called under the rule, resulted in rejection of the motion by a vote of yeas 44, nays 42, two-thirds of the Members of the Senate not having voted in favor thereof.

Mr. President, it is most interesting to examine the rollcall to see who voted against the motion to impose cloture, and who voted for that motion which would have opened the door and have been an invitation to deny the rights of Senators on the Senate floor and would have constituted an impairment of the standing, the prestige, and the power of Senators and the States they represented. Whom do we find among those who voted "nay"? The present President of the United States, then Senator John F. Kennedy. I can but hope that tomorrow Senators will follow the example which the President of the United States set as a Member of this body on July 26, 1954, and cast their votes as he did on that date, and vote against the cloture proposal.

During the delivery of Mr. HILL's address.

Mr. STENNIS. Mr. President——

Mr. HILL. Mr. President, I ask unanimous consent that I may yield to the distinguished junior Senator from Mississippi, with the understanding that I do not lose my right to the floor, and with the further understanding that his remarks will appear at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, I appreciate the courtesy of the Senator from Alabama and of other Senators, as well.

I wish to address myself particularly to article I, section 4, of the Constitution, as an alleged constitutional base for Senate bill 2750, which is the Mansfield-Dirksen measure which is proposed to be substituted for the claims bill that is the pending measure.

Article I, section 4, of the Constitution expressly gives to Congress the power to make regulations regarding "the times, places, and manner of holding elections for Senators and Representatives." The Civil Rights Commission has frankly recognized that this article of the Constitution does not support the constitutionality of S. 2750. The Commission says, in a staff memorandum on the constitutionality of the bill:

> It is not clear how any provision of the bill fairly relates to regulation of the times, places, and manner of holding elections by article I, section 4.

That statement is taken from staff memorandum No. 8.

Since, however, there is no other provision of the Constitution on which to rely in support of the bill, and in spite of this frank admission of inapplicability, the Commission nevertheless tries to draw some support from article I, section 4, because the same memorandum recites:

> No case has settled the issue of whether there may not be some qualifications which might also be subject to regulation by the Federal Government as affecting the times, places, and manner of holding elections.

That statement is taken from staff memorandum No. 6.

Of course, the reason for this is not hard to find. Some things are so clear that there is no issue to be decided by a litigated case. No case has ever settled the issue of whether each State is entitled to two Senators. The Constitution is entirely clear and explicit on this point. So, too, it is clear on the point that Congress may regulate the manner of holding elections, and that it may not regulate the qualifications of electors. There is no issue about the matter, except to the extent that a fictitious issue is created in an effort to accomplish a purpose forbidden by the Constitution. That is about as close as the sponsors of the measures have ever come to a constitutional basis upon which the bill can rest. They merely say that no case has ever been decided on the point. Of

course there has never been any case directly on the point. The language is too clear, positive, and firm.

Mr. HILL. Mr. President, will the Senator from Mississippi yield?

Mr. STENNIS. I yield.

Mr. HILL. Have not the cases all been the other way?

Mr. STENNIS. Yes. Every time the courts have touched the top, side, or bottom of this question, or of any question related to it, they have held and I think unanimously, and not once, but many times over the decades, for more than a century, that the certain rule in this matter is as has been contended by those who are in opposition to the bill.

The Department of Justice has made a strong effort to find some historical evidence to support a position that the framers of the Constitution, in giving Congress the power to regulate "the manner of holding elections," intended to include some power to regulate the qualifications of electors. This is obviously an impossible task to perform in the face of such forceful and clean-cut statements to the contrary as that made by Alexander Hamilton in the Federalist Paper No. 60, in which he said:

> The truth is, that there is no method of securing to the rich the preference apprehended, but by prescribing qualifications of property either for those who may elect or be elected. But this forms no part of the power to be conferred upon the National Government. Its authority would be expressly restricted to the regulation of the times, the places, the manner of elections. The qualifications of the person who may choose or be chosen, as has been remarked on other occasions, are defined and fixed in the Constitution and are unalterable by the Legislature.

How could a comment upon language that is already clear and definite and positive be any stronger or firmer; and how could there be a better authority on the subject than those who wrote the language themselves, at a time when their memories were clear and the issues were still hot and were being debated by people at the State level?

The question was, Shall the Constitution be adopted or rejected? That was the vital issue. All the testimony is that this was one of the major points to be considered, one of the main foundations, the mudshell of one of the major determinations that made it possible to have a Constitution.

That noted man, that remarkable man, who helped to write the Constitution, said:

> The qualifications of the person who may choose or be chosen, as has been remarked upon other occasions, are defined and fixed in the Constitution, and are unalterable by the Legislature.

Still, today, in spite of the fact that the same language has been repeated by two additional provisions in the Constitution, as amendments, since its inception, and in spite of the fact that the courts, over and over again, have reiterated the correctness of Alexander Hamilton's discourse on this language, and in spite of the fact that everything has consistently pointed that way over all the years, the Senate nevertheless, today, is attempting to usurp the power, and that is what it is—a usurpation—attempting, in the political pressure of the times, to usurp powers that is not ours. Still, we are asked to take that power anyway. We are asked to usurp it to ourselves, and to prescribe the qualifications for electors.

Mr. President, it is unthinkable that that can happen. I do not believe it will happen. The bill will not become law in the light of a complete dearth of historical evidence to support its position.

In that connection, the Department of Justice makes the now familiar comment in favor of such proposals that on this issue "history provides inconclusive answers."

Mr. President, there is nothing inconclusive about it. The evidence is overwhelming. This is another illustration of the strategy when the proponents of a certain position cannot make a historical foundation or a constitutional foundation for their assertions. They end by saying that history provides inconclusive answers. But this is one instance in which history provides a completely conclusive answer based upon history and the precedents of logic, law, and reason.

Since the Constitution does not give Congress any power to establish the qualifications of electors, as the proponents of S. 2750 must concede, an effort is being made to support the bill's alleged constitutionality by the use of a play on words. S. 2750, according to the semantical technique, does not establish voter qualifications. It only provides the means, as the proponents claim, by which a legitimate State-established voter qualification is to be determined; and this, by the use of a nonsequitur, becomes a part of the manner of holding elections, and so within the power of Congress to regulate under article I, section 4.

Mr. President, that is a juggling of language and logic and reasoning which should not be indulged in by those who hold responsible positions. Part of this attempt is found in a statement made by the Attorney General when he appeared in support of this bill:

> The bill does not prevent the States from requiring literacy or understanding ability of their voters. That objection is not wrong. * * * What we propose is to substitute an objective standard for the present subjective color bar to Federal voting. * * * It is concerned solely with the appropriate, fair, and nondiscriminatory manner of measuring the qualifications of Federal voters under State law.

Dean Griswold, who has been quoted frequently, said:

> By specifying a sixth-grade education in a public or accredited private school, the legislation would merely substitute an objective means of determining a legitimate qualification for methods which are capable of—and indeed have been put to—discriminatory use.

While the Department of Justice memorandum on the constitutionality of Senate bill 2750 is quite interlarded with statements of this viewpoint, the fullest statement is incongruously placed under the heading "Judicial Construction," although the position is entirely devoid of any judicial support. The statement is as follows:

> S. 2750 could constitute a permissible regulation of the "manner" of holding elections for Federal officials in two respects. First, it would alter the method of testing whether a prospective voter possesses the particular educational or similar qualification set by the State. Instead, it would substitute an objective and easily ascertainable requirement—completion of six grades of formal education. Second, it would eliminate the racially discriminatory fashion in which existing tests have been administered. In these ways Congress would insure that "the manner" of holding elections for its Members is not improper.

I have quoted from Justice Memorandum No. 22.

The closest thing to judicial support for this position that the proponents of the bill have been able to find is the decision in the case of *Ex parte Siebold*, 100 U.S. Reports 371, decided in 1880, but the single case relied on by both the Civil Rights Commission and the Department of Justice—Ex parte Siebold—does not even contain a dictum or intimation in support of their position. The question presented and decided in the Siebold case was whether, when Congress undertakes to regulate the manner of holding elections for Representatives, its regulations become exclusive and supersede all State regulations on the same subject.

I invite the attention of the Senator from Alabama [Mr. HILL] to this point, and I repeat it: The question presented and decided in the Siebold case—the case cited here as the only authority for the position of the proponents—was whether, when Congress undertakes to regulate the manner of holding elections for Representatives, its regulations become exclusive and supersede all State regulations on the subject.

That is an age-old question, well known in the law, as to the Federal-State relationship.

The Supreme Court of the United States very clearly answered that question, the only question involved, in the following short paragraph:

> We are unable to see why it necessarily follows that, if Congress makes any regulations on the subject, it must assume exclusive control of the whole subject. The Constitution does not say so.

That is the decision in the Siebold case, as reported in 100 U.S. Reports 383, decided in the year 1880.

Mr. President, it is a well-known fact that elections involve the questions of the time, place, and manner of holding elections; and the writers of the Constitution made clear that unless there was such a constitutional provision, they would not have any power in regard to the qualification of electors. But they were not willing to surrender all control over the time, place, and manner of holding elections; so they reserved that power, to be used if they saw fit to use it.

The Court, lamely following that language, said that while they reserved that power, it was not exclusive power; and in any field which they had not filled, of course the States still had their own power.

That is the only intrusion of any kind that there is on the States power, even as to the manner of holding elections.

Mr. HILL. Mr. President, will the Senator from Mississippi yield?

The PRESIDING OFFICER (Mr. HICKEY in the chair). Does the Senator from Mississippi yield to the Senator from Alabama?

Mr. STENNIS. I yield.

Mr. HILL. The Senator from Mississippi will recall that one of the last decisions which the late great Chief Justice Charles Evans Hughes wrote cited the Siebold case as being the authority and the law, just as the Senator from Mississippi this afternoon has cited that case as the authority and the law on this subject.

Mr. STENNIS. Mr. President, I appreciate the contribution made by the Senator from Alabama. It shows how well versed he is in the cases which pertain to this important subject; and I appreciate his part in the debate.

So, Mr. President, the opinion in that case—although there are also the opinions of some lawyers, but the Siebold case is the only one directly in point—is far afield from the position used here in support of this proposed legislation.

Mr. President, Senate bill 2750 does establish the qualifications of electors for Federal officials. There can be no doubt about that, and it is demonstrated very easily. All agree that the States may legitimately establish age qualifications for voters. But under the theory advanced in support of this bill, Congress could pass legislation declaring it to be a deprivation of the right to vote for any State to withhold the voting privilege from, or to interfere with the exercise of the right to vote by, any person who had attained age 18—or, with almost as much plausibility, age 16; and, so far as naked power is concerned, and with some good reason, Congress could apply that rule to those who had attained as much as 12 years of age.

Twelve years of age was the age of accountability under the old Jewish law, as I recall, and is the age of responsibility according to many of the customs we have today. So there is even logic in support of extending the privilege down to as tender an age as 12 years. But who here would say that Congress has the power by statute to prohibit any State from prescribing that a person must be 21 years of age or 20 years of age or 19 years of age or any age above 18 years, or even 18 years of age, if he is to vote, and thus providing that as the only cutoff age on which any court could pass.

But under the theory used by those who proposed the enactment of this bill, if Congress wanted to restrict the electorate, Congress could declare it to be an illegal interference with the manner of holding elections for any State to permit any person to vote if he had not attained age 25 or age 30 or age 50 or any other age. Such legislation, under the theory advanced in support of the pending measure, would not establish a qualification to vote; instead, so we are told, it would only provide an objective method of determining a legitimate qualification to vote.

Mr. President, that argument shows what circuitous reasoning is applied in order to attempt to uphold this proposed legislation—not legislation on a constitutional basis, but proposed legislation on an emotional basis or based on some other strategy far beyond the powers Congress has.

To use another example: All agree that the States may legitimately disqualify persons convicted of crime from voting. Cannot Congress then, under this theory, pass a law which, in the words of the Department of Justice, "simply establishes an objective method of ascertaining whether an applicant possesses the State-imposed qualifications," and which bill provides that it shall be a deprivation of the right to vote for any State to withhold the vote from any person who has not been convicted of a crime for which the death sentence was imposed and carried out?

It is obvious that if the doctrine being urged upon us is accepted, Congress will henceforth have the power to assume full control over the fixing of voter qualifications, all in the guise of establishing objective methods of determining such qualifications. The doctrine uses article I, section 4, of the Constitution for the purpose of destroying article I, section 2, and a substantial part of the 17th amendment to the Constitution.

Mr. President, that point has not been expressed before—the proponents of this bill would use a stretched, vague, elaborate interpretation of section 4 of article I in order to kill the clear language of article I, section 2, and a substantial part of the 17th amendment to the Constitution.

Mr. HILL. Mr. President, will the Senator yield?

Mr. STENNIS. I yield.

Mr. HILL. And the stretching of which the court has denied. Is that not correct?

Mr. STENNIS. That is right. The courts will not follow that.

These arguments have been made many times in the Federal courts and the State courts, but more particularly in the Federal courts. Resourceful lawyers have doubtless made these arguments many times. They have always been rejected and precedents have been established the other way. Now those same arguments are made on the floor and urged in support of this bill.

While the claim is made that Congress in S. 2750 is only substituting an objective standard for the subjective standard being used by the States, this position is wholly untenable. No more subjective standard can be imagined than for the Members of Congress to adopt the standard by which the Members of Congress are elected. The framers of the Constitution and the draftsmen of the 17th amendment knew this and they guarded against it by adopting a truly objective standard. The Constitution itself provides the objective standard to be used in establishing and determining voter qualifications by providing in article I, section 2, that "the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature." In this way no one—neither the Federal Government nor the States—directly establishes the qualifications of electors of Federal officials. What standard could be more objective?

I repeat, quite briefly, the language that I used in an argument here last week, namely, that a State legislature has no power in the world to pass a bill directed solely to the question of what shall be the qualifications of electors in voting for Members of the House of Representatives and U.S. Senators. It would not have a semblance of validity, it would not be worth the paper it was written on. The States are not permitted to approach the question in that way.

The Constitution of the United States expressly adopted a method that results in an equal result in the end product, but there is a substantially different method of doing it. The State had the power without the Constitution. Each State could fix the qualifications of electors, of course, for their own State legislatures. The Constitution merely adopts those qualifications set in each State for electors to the most numerous branch of the State legislature.

So the matter was not left as a Federal question in the hands of the State legislatures. No authority was given to the Congress itself, but I think there was a most admirable and a very resourceful adjustment made. Certainly it was for that time, and the decades that have followed have justified the wisdom in providing that the qualifications for the electors of the most numerous branch of the State legislature, is the standard adopted as to who shall vote for the Members of the U.S. Senate and House. It ended there. That is good, sound law. The people can change it through constitutional amendment, but the Congress, according to what all the laws say, cannot change it.

A great deal of argument has been made here with reference to the power of the Congress to protect the integrity of its own electoral process. I have a very brief comment upon that subject.

Since no clause of the Federal Constitution supports S. 2750, the crux of the matter as regards the power of Congress to pass the bill is whether Congress has, in the words of the bill, a "power to protect the integrity of the Federal electoral process" that is above and beyond the powers given to Congress by the Federal Constitution, and which, up to now, have always been considered sufficient.

The argument relating to the power to protect the integrity of Federal electoral process is just pulled out of thin air. I recall so vividly one of the essential, fundamental principles in constitutional law which I was taught when I was a student—and I have found it has applied ever since—is that, so far as the Federal Government is concerned, there is no superior law to the Constitution; there is no superior government power upon which its authority is based than its own constitutional framework.

Mr. TOWER. Mr. President, will the Senator yield?

Mr. STENNIS. I am glad to yield.

Mr. TOWER. Is it not true that article VI of the Constitution states:

> This Constitution, and the Laws of the United States which shall be made in Pursuance thereof, and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land * * *.

Is not the word "pursuance" in there?

Mr. STENNIS. The Senator is correct. That is very carefully drawn language. It means what it says; it does not mean anything else; it excludes everything else. It states "laws passed in pursuance thereof." If Congress does not have this additional power, then this bill must be unconstitutional, for it is still accepted doctrine, even though a doctrine sadly eroded in some areas, that the Federal Government has only such powers as have been delegated to it.

In appearing before the Senate Subcommittee on Constitutional Rights, Dean Griswold said:

> It is true that under article I, section 2, *and the 17th* amendment, basic control of qualifications of electors is reserved to the States, subject of course to the power of Congress to protect its own elections.

This is the superpower. This is the "reading in" of something to the Constitution.

That quotation is taken from pages 4 and 5 of Dean Griswold's statement.

Unfortunately, for the purposes of discussion, Dean Griswold did not make clear where Congress gets the power to override the Constitution itself. This would be an overriding of the Constitution, Mr. President, directly in conflict with the plain provisions of the Constitution.

Dean Griswold says that one clause of the original Constitution and one amendment are, in his words, "subject of course, to the power of Congress to protect its own elections."

I deny that totally. I deny that the Federal Constitution, insofar as it relates to the Government of the United States, until amended in a constitutional manner in accordance with the provisions of article V, is subject to any other power—to any higher power, lower power, good power, bad power, desirable power, or undesirable power—whether conjured up by proponents of the legislation, by the Civil Rights Commission, by a witness, or by anyone else. I deny that there is any such power.

Mr. HILL. Mr. President, will the Senator yield?

Mr. STENNIS. I am glad to yield to the Senator from Alabama.

Mr. HILL. Is it not true that the only power the Constitution is at all subject to is the power of the people, acting through the means and methods provided by the Constitution itself, if the people should see fit to make any change in the Constitution?

Mr. STENNIS. That is basic law and basic principle. It is the fundamental, foundation principle of our form of government. When we get away from it, even if we only crack the wall, and begin to assume powers that do not exist, then we are tearing down the basic structure.

As Daniel Webster once said that other things can be destroyed and we can build them back; but if we tear down the pillars of constitutional government all will be gone.

I appreciate the Senator's question very much.

The Senator from Texas [Mr. TOWER] asked a very pertinent question with reference to the Constitution expressly providing that laws must be passed in pursuance of the Constitution.

Mr. HILL. Mr. President, will the Senator yield further?

Mr. STENNIS. I am glad to yield.

Mr. HILL. Otherwise there would be a government of men and not a government of laws; is that correct?

Mr. STENNIS. The Senator is correct. Even though our system does not work perfectly, no other system does. Even though errors show up, what the fight has always been about is to keep the Constitution, so that we may have constitutional government rather than power exercised in an unrestrained way by men—and, therefore, a government by men.

The Senator from Alabama and other Senators know it took a long, long time for any nation to get away from and to successfully stay away from that idea or concept of government by men, and to establish the real concept of government by law and by constitution.

Mr. President, I deny that there is any such power. I believe that every Member of this body on full study will agree with me. I believe that every citizen of the United States who is interested in and informed on constitutional government will agree with me in denying the existence in the Congress of a power superior to the Constitution of the United States.

There are no powers anywhere in the Government or in the Nation—in whatever branch one may think of, or in whatever group one may think of, regardless of whatever kind of material power may be possessed or political power may be possessed—greater than the Constitution. No group or combination of groups is superior to the Constitution of the United States.

It is difficult, Mr. President, to trace to its source this supposed power of Congress which is said to exist, aside from the provisions of the Constitution, "to protect the integrity of the Federal electoral process."

The staff memorandum of the Civil Rights Commission on the subject of constitutionality has this to say as to the source of the power to pass S. 2750 and similar proposed legislation:

> The only power involved is the power of the Federal Government to protect its elections. This power of protection is implied from the existence of Federal elections, the subject of article I, section 2. The same considerations apply to the identical language in the 17th amendment. In this connection the court has said:

There follows a quotation in the memorandum from the Yarbrough case:

> If this Government is anything more than a mere aggregation of delegated agents of other States and governments, each of which is superior to the General Government, it must have the power to protect the elections on which its existence depends, from violence and corruption.

The citation is *Ex parte Yarbrough*, 110 U.S. 651, 658 (1884). Other citations are *Wiley* v. *Sinkler*, 179 U.S. 58 (1908); *Swafford* v. *Templeton*, 185 U.S. 487 (1902); and *United States* v. *Classic*, 313 U.S. 299 (1941).

I continue to quote from the staff memorandum:

> The power to protect the right thus secured is not limited to State action but extends to the acts of private individuals.

The Civil Rights Commission says:

> This power of protection is implied from the existence of Federal elections, the subject of article I, section 2.

Mr. President, this is a weakly worded sentence which can be highly misleading to the reader. While the sentence and the context imply that article I, section 2 is the source of power, a careful reading of the sentence shows it only says that the "power is implied from the existence of Federal elections."

The fact that article I, section 2, deals with Federal elections has nothing to do with the matter. It may be worth noting again at this point that article I, section 2, does not deal with the subject of Federal elections generally, as this sentence implies, but only with the elections of Members of the House of Representatives.

Ex parte Yarbrough, of course, supports the power of Congress to regulate the manner of holding congressional elections. It recognizes that violence in connection with the holding of an election does relate to the manner of holding the election and is within the power of Congress to regulate. The decision, though, lends no support whatsoever to a claim that Congress has some power which overrides article I, section 4, to protect the integrity of the Federal election process.

Mr. President, at this time I shall not discuss further the cases which I have mentioned, although I have available a discussion for that.

Before I conclude, Mr. President, I wish to say a few words with reference to the question of imposing cloture on Senate debate. It is unfortunate indeed that the question of imposing cloture on Senate debate and the so-called civil rights issue are often considered as one and the same. This is a grave error indeed and a serious injustice to the Senate and to the country.

The rules of the Senate were not adopted to take care of individual cases. The fact that the rules of the Senate are good for the Nation is the reason these rules have survived the test of time.

These rules have been very effective in protecting the country against hasty and ill-considered legislation and they should not be considered lightly.

Mr. President, I sincerely urge that each Senator seriously consider the lasting effect of his vote when it is sought to cut off debate by imposing cloture.

Once cloture is imposed, there will be a precedent and efforts may well be made to impose cloture again and again.

In fact, I can foresee that there will be a move to impose cloture on all major matters coming before the Senate.

The same end result will be hastened should rule XXII be changed permitting less than a two-thirds vote to cut off Senate debate.

It must be clearly understood that there is more at stake than the literacy test bill now being debated. There is more at stake than solely the matter of defeating or aiding in the passage of this bill, or any other single bill.

The right of debate often gives the minority the power to protect itself against unwise legislation by forcing terms and attracting support for certain amendments necessary to perfect the legislation. If cloture is to become an everyday occurrence, this bargaining power would be destroyed.

Several years ago there was a bill before the Senate that related to questions vital to great areas of our country The TVA was involved. The result of its operation was to be a yardstick for operations in other areas of the country. Great pressures were behind the bill. The bill passed the House of Representatives in a certain form. I believe the bill was known as the atomic energy bill. It came to the floor of the Senate and was debated for 3 weeks. If the distinguished Senator from Alabama [Mr. HILL] was not the leader, at least he was in the forefront of the leaders in the debate. The bill passed, but by the time it passed after 3 weeks of debate, certain amendments had been added to the bill that have been found to be fair for the entire Nation. The law now works satisfactorily. There has been no complaint about its operation or provisions. It proved to be a sound and substantial basis for permanent legislation, not only for the TVA, but the development of atomic power. Today the law represents the policy of the Nation on that subject. If the habit of cutting off debate had been established, that bill might have been passed within a 3- or 4-hour debate limitation as it passed the House of Representatives.

Those pressing for cloture on the issue now before the Senate might well consider the lasting effect of their haste to limit debate. If cloture is invoked, it will surely diminish the power and authority of each individual Senator in representing his sovereign State. The stature of the Senate itself will be diminished.

The Senate has not become an institution by accident. The Senate is what it is today because of the respect for its rules and the rights of the minority recognized by our predecessors down through the years. The Senate has been preserved by the foresight of Webster, Clay, Calhoun, La Follette, Taft, and many others too numerous to mention by name.

If in the twinkling of an eye and without proper consideration for the permanent damage to the Senate and to the Nation cloture is invoked, then an important factor in the preservation of constitutional government in this country will be destroyed.

If cloture is invoked on this issue, it will be invoked on many others. The imposition of cloture will come to be "routine" and when that happens, no one today can safely predict what dangerous legislation might be enacted in future years because of this fact.

Mr. HILL. Mr. President, will the Senator yield?

Mr. STENNIS. I yield.

Mr. HILL. Does the Senator know of a single measure possessing real merit that has ever been defeated because of the free debate permitted in the Senate?

Mr. STENNIS. I have heard the question of the Senator from Alabama raised from many different angles and in many debates since I have been here. No one has ever been able to point out a single instance in which any harm has been done to the people of our Nation by a failure to pass proposed legislation. On the other hand, many examples have been and can be given in which harm was prevented as a result of extended debate, and by the Senate failing to cut off debate.

Often bills in some form pass at a subsequent time, but only after the injurious and harmful factors have been removed or conditions added.

If we adopt routine cloture, we shall cut off our power to negotiate, to amend, and enact legislation for all the country rather than only a section.

We have already seen a situation grow in recent years where the duly constitued committees of the Senate having jurisdiction over legislation on certain subjects have come to be bypassed in a routine manner. Legislation has been brought to the floor of the Senate direct on several different occasions, and if this practice is continued, the committee system will be destroyed. Not only has this been done in so-called civil rights legislation, but earlier this session an effort was made to take the urban affairs legislation from a committee and bring it direct to the floor of the Senate when the committee had already scheduled a meeting just a day or two later to take action on the bill.

The same tactics can be used in the future on all legislation, including prolabor bills, antilabor bills, water-rights bills, tax legislation and others. We saw the same procedure adopted some years ago in legislation calling for the enforced labor of railroad workers. That incident occurred immediately after the end of World War II, when a bill was passed by the House of Representatives which would actually require the President of the United States to put railroad workers into the military service so that they would be subject directly to the President's orders. The bill was killed on the floor of the Senate. Everyone is now happy that it was.

The imposition of cloture endangers our whole system of considering legislation in the Senate. It endangers the Senate as an institution. It endangers constitutional government.

Mr. HILL. Mr. President, I thank the Senator and congratulate him on his very able, fine, and compelling address today.

Mr. STENNIS. I thank the Senator very much. He was most kind to yield.

Mr. COOPER. Mr. President, will the Senator yield to me?

Mr. HILL. I yield to the Senator from Kentucky without losing my right to the floor.

Mr. COOPER. Mr. President, I will vote against cloture, and also against the amendment to H.R. 1361, which would provide that the completion of the sixth grade shall be accepted as proof of the literacy of persons otherwise qualified to vote.

It is difficult for me to cast this vote because I have supported civil rights legislation from the beginning of my service in the Senate, in my own State, and in every campaign that I have made. I oppose cloture because a difficult constitutional question is involved—different, in my opinion, from any previously raised regarding civil rights legislation—and I do not believe that sufficient time has been given to this question. I will vote for cloture later, but I must say that I believe that debate on such an important constitutional issue should not be terminated after 2 weeks' debate—chiefly because it is a civil rights issue.

I shall vote against the literacy amendment because I do not believe it is constitutional. Whatever the Supreme Court may do if this bill passes, it is my responsibility to vote against a bill, even a civil rights bill, when I believe it is unconstitutional.

In this brief statement I am not attempting to cite cases which have been quoted and cited throughout the debate. I may say that at one time I was a lawyer, and at one time I was a judge, and I have taken occasion to read carefully the cases that have been cited, and also some of the testimony which was adduced at the hearings. However, I know that the Constitution provides that qualifications for voters are determined by the States in accordance with article I, section 2, and the 17th amendment of the Constitution. I agree with the supporters of this amendment, that the 14th and 15th amendments authorize the Congress to enact legislation to enforce the provisions of these amendments by appropriate legislation, for the purpose of preventing discrimination on account of race or color.

The difficulty with this bill is that it empowers the Congress to establish a qualification for electors. If Congress can provide that the completion of the sixth grade establishes literacy for voters, it can logically fix other literacy qualifications, either for longer or shorter periods of schooling. I believe further—although this is not my controlling reason for voting against the amendment—that this provision will be used as a means of discrimination against self-educated voters who are literate, but have not completed the sixth grade. Completion of the sixth grade will become the test of their qualification to vote, however literate they may be. It is my judgment that thousands of literate Negroes in the South, who have not been able to complete the sixth grade, will be the victims of this provision.

I know from my own experience as a judge and as a local official that there are literally thousands of people who vote who never went through the sixth grade, but who through their interest in political affairs and their own commonsense are much more sensible in their political determinations than many who have gone through college.

The pending amendment, if it should become law and if it were upheld by the Supreme Court, in my judgment would provide a further vehicle of discrimination in those States which have literacy qualifications.

I agree with the findings of the amendment that literacy qualifications—in cases where the decision respecting literacy is determined by the subjective judgments of registration and election officials—have been used to discriminate against Negro voters.

One who opposes the amendment, like myself, must answer the question, "What can be done by the Congress, legally and constitutionally, to enforce the provisions of the 14th and particularly the 15th amendments against such discrimination?"

I make the following suggestions:

First—and there is, of course, the constitutional amendment route—I believe that a statute would be constitutional which would prohibit the use of all literacy tests in both Federal and State elections, where such tests relate to understanding, performance, or comprehension, et cetera, decided, subjectively by registrars and election officials. Such a statute would not establish the qualifications of voters or prohibit the establishment of objective literacy qualifications for voters. It would be proper and constitutional in my view because it would strike down completely the system of literacy tests resting upon subjective determinations by local officials, which have been found vehicles of discrimination.

Second, I hold that title 6 of the Civil Rights Act of 1960, if used vigorously by the administration, would end much of the discrimination against voting rights. Briefly, this provision authorizes Federal district judges, with the help of voting referees in any number that the court might find necessary, to issue a certificate to single voters or to groups of voters identifying the applicant as qualified to vote. This section does not require a finding of discrimination against each voter, but that discrimination has actually occurred and that such discrimination is pursuant to a pattern or a practice. I say all of us know the power of a Federal district judge and the respect in which the Federal district courts are held by the people. If vigorous action were to be taken by the administration under this section of the Civil Rights Act of 1960 a great deal could be done in 1 year to eliminate discriminatory practices against voting rights.

I would like to see Congress and the administration take action concerning voting rights along the lines I have stated. I would like to see action taken in several other fields where it is clear that discrimination exists, and where in my view there is no constitutional question about the power of Congress or of the administration to act.

One field is the implementation of the Brown decision, applying to the desegregation of public schools. The Senator from New York [Mr. JAVITS] and I have submitted an amendment which would authorize the Attorney General to intervene in the name of the United States and at the expense of the United States to implement the desegregation of schools. This authority was given the Attorney General with respect to voting rights in the Civil Rights Act of 1957, and there is no reason why it should not be extended to school desegregation.

The second field is that of public housing. I think there is no question that action to desegregate public housing, whether immediately or over a period of years, could be provided by legislative authority, and many believe by Executive action.

A third field which has been the subject of public interest and concern for the last few years, relates to equality in the use of public businesses. This subject may not be within the jurisdiction of Congress—and I doubt whether it is—but it is my view that the Supreme Court will eventually determine that public businesses which usually are required to secure a public license to conduct their business and which hold themselves out to the public for patronage must be open to the public, and the public includes all people of whatever race, color, or creed.

I will continue to work for and support civil rights legislation providing equality under the law to all of our citizens regardless of their race or color.

I cannot support the motion for cloture. After 2 weeks of debate on a very important constitutional question, I must believe that the motion is made simply because the Senate is considering a civil rights proposal. I have supported civil rights legislation; but the opponents have the same right to present their views in a full debate as those of us who have supported civil rights legislation in the past have had the right to present our views.

Finally, I cannot vote for the amendment, because I believe it is unconstitutional on its face. I cannot, taking into consideration my views, vote for the amendment, even though it relates to a subject in which I am interested, because I deeply believe it is unconstitutional.

I thank the Senator from Alabama for yielding to me.

Mr. HILL. I am glad to have been able to accommodate the Senator from Kentucky.

Mr. CARROLL. Madam President, will the Senator from Alabama yield?

Mr. HILL. Madam President, I ask unanimous consent that I may yield to the distinguished Senator from Colorado, with the understanding that I will not lose my right to the floor.

The PRESIDING OFFICER (Mrs. NEUBERGER in the chair). Without objection, it is so ordered.

Mr. CARROLL. Madam President, I am pleased and gratified to have had the opportunity to sign the motion for cloture which will soon be before the Senate for consideration.

I have long felt that nothing should hamper or restrict in any way the right and the responsibility of the Senate to discuss, examine, and adequately inform itself on legislative matters under its consideration. There comes a time, however, when the debate has covered the ground and useful information has been brought together, when the Senate must proceed to a consideration and a vote upon the merits of the legislation.

That time, it appears to me, has arrived.

Over the last 2 weeks and more, we have heard an exhaustive discussion of the legal and constitutional aspects of this proposal. These arguments are not new; we have heard them before. In 1957, in 1960, earlier in this session and here today we have listened and examined the merits of the issues involved.

In the particular amendment before us, a proposal to protect the right to vote in Federal elections free from arbitrary discrimination by literacy tests or other means, it appears to me that certain points are both simple and clear.

NEGROES ARE NOT VOTING

It is undeniable that in certain areas of our Nation Negroes are not now being registered. I have before me the 1961 report of the U.S. Commission on Civil Rights. I should like to draw the attention of the Senate to a table printed in that report. I ask unanimous consent that the table be printed at this point in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE I.—*"Nonvoting" black-belt counties chosen for Commission study*

State and county	Nonwhite population 1950 [1]	Nonwhites of voting age registered [2]
	Percent	*Percent*
Alabama:		
Greene	83.0	2.6
Monroe	51.1	2.7
Florida: Gadsden	56.1	.6
Georgia: Lee	71.3	1.1
Louisiana:		
Claiborne	51.7	.2
Tensas	64.8	0
Mississippi:		
Carroll	57.0	0
De Soto	67.2	.01
Issaquena	67.4	0
Leflore	68.2	1.6
Quitman	60.7	3.0
Tate	57.6	0
North Carolina: Hertford	60.0	2.9
South Carolina:		
Calhoun	70.8	1.7
McCormick	62.6	0
Williamsburg	67.6	1.9
Tennessee: Fayette	70.6	

[1] Source: 1950 Decennial Census.
[2] Source: See 1959 Report at 587–589. 1959: Louisiana; 1958: Alabama, Florida, Georgia, North Carolina, South Carolina, Tennessee; 1955: Mississippi.

Mr. CARROLL. Madam President, Senators will note that Greene County, Ala., with a nonwhite population of 83 percent, had, as of 1958, but 2.6 percent Negro registrants. Let us take another county in another State. Tensas Parish in Louisiana with a nonwhite population of 64.8 percent had no Negroes registered at all, nor were there any Negroes registered in Carroll County, Miss., which

has a 57 percent nonwhite population; nor were there any Negroes registered in McCormick County, S.C., with a Negro population of 62.6 percent.

We have the facts. Negroes are not being registered in certain areas.

IMPROPER USE OF THE LITERACY TEST

What is equally clear and uncontrovertible is that the Civil Rights Commission has found that literacy tests and other performance examinations are improperly used to deny registration to otherwise qualified U.S. citizens. It has been often said on this floor that no specific cases have been produced to show the misuse of these tests. However, in the 1961 report to which I have referred, I point out that many specific cases of such injustice are detailed. I would refer Senators to chapter 2 entitled "Status of the Right to Vote."

It is apparent to all reasonable men that some qualified Negroes have been denied their franchise by the discriminatory application of literacy tests by State and local officials. It is not necessary nor is it possible to present exact detailed nationwide figures upon this practice. It is enough to show that the practice exists. It does exist.

CIVIL RIGHTS COMMISSION, A CREATURE OF THE CONGRESS

The Congress has received these facts in the annual report of the U.S. Commission of Civil Rights. This Commission is a creature of the Congress, created by the Congress in 1957. It reports annually to the President of the United States and to the Congress. The Supreme Court has concisely stated its function as follows:

> The only purpose of its existence is to find facts which may subsequently be used as a basis for legislative or executive action.

Let there be no doubt that the Congress has the factual basis for legislative action in this field.

CLEAR CONSTITUTIONAL AUTHORITY

There has been discussion upon this floor whether the Congress has authority to legislate in this fashion. For justification we need search no further than the 14th and 15th amendments. The 14th amendment guarantees, to all persons, the equal protection of the laws. The 15th amendment, as all Senators know, reads as follows:

> SECTION 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude—
>
> SEC. 2. The Congress shall have power to enforce this article by appropriate legislation.

Why was section 2 included in the 15th amendment? It was to give Congress not only the authority but the power to enact appropriate legislation. The Senate soon will have an opportunity to enact such legislation.

Can any Senator today question that Negroes have been denied the right to vote on account of their race and color by State action, by State registrars acting under color of State law? We have the evidence.

We have the authority—indeed we have the duty—to activate these constitutional provisions by doing what we as a legislative body should do to correct an unconstitutional situation. We are not disputing the right of a State to determine voters' qualifications nor are we disputing their right to set literacy as such a qualification. We say only that a literacy test which is fair on its face may not be employed to perpetuate the discrimination which the 15th amendment was designed to uproot.

PROPRIETY OF CONGRESSIONAL FINDINGS

It has been said in this Chamber that Congress is usurping judicial power in undertaking to recite in legislation the truth of facts. I merely point out that the constitutionality of much of the legislation approved by the Congress is dependent upon whether the Congress has an adequate basis for deeming legislation necessary. Such major pieces of legislation as the Internal Security Act, the Wagner Act, and the Taft-Hartley Act contain recitals of findings of fact and statements of policy. The purpose of such statements is, after all, to advise the courts as to why the Congress has deemed legislation necessary.

THE NEED FOR ADDITIONAL LEGISLATION

It has been often stated that the Attorney General has now an adequate arsenal of ammunition to cope with the situation with which we here treat. However, the Attorney General, himself, in testimony before our Judiciary Committee on Constitutional Rights, of which I am a member, said:

> Our experience shows that existing laws are inadequate. The problem is deep rooted and of long standing. It demands a solution which cannot be provided by lengthy litigation on a piecemeal county-by-county basis. Until there is further action by Congress, thousands of Negro citizens of this country will continue to be deprived of their right to vote.

The Attorney General has called for this additional authority in order to see that qualified American citizens are guaranteed their franchise.

We in the Congress having examined the evidence, considered the proposal and acting within our constitutional responsibilities have no alternative but to approve this legislation.

Madam President, I urge all Senators to support the motion for cloture so that the Senate may proceed to consider and vote the merits of this proposal.

Madam President, I thank the able Senator from Alabama for affording me the opportunity to make this statement.

Mr. HILL. I am pleased to have been able to accommodate the Senator from Colorado.

Mr. TOWER. Madam President, will the Senator from Alabama yield?

Mr. HILL. I yield to the Senator from Texas for a question.

Mr. TOWER. Does not the Senator from Alabama believe the Senator from Colorado raised an interesting point when he said that Congress may implement the provisions of the Constitution by appropriate legislation? Does the Senator from Alabama believe that appropriate legislation designed to implement the provisions of the Constitution must in itself be constitutional? That is to say, must not the means adopted to the end be in themselves constitutional?

Mr. HILL. The Senator is exactly correct. That is one reason why the word "appropriate" is used. The Senator from Texas is entirely correct. The means used and the implementation itself must be constitutional. In other words, there must be within the Constitution itself power for the implementation.

Mr. TOWER. And is not the Senator from Alabama aware—of course, I am sure he is—that the Supreme Court of the United States has held that literacy tests are constitutional; that a literacy test recognizes no color or creed, and therefore a literacy test is constitutional?

Mr. HILL. The Senator from Texas is correct.

Mr. TOWER. Would it not be proper, then, for us to resort to the constitutional amendment process, if we are to try to change this provision of the Constitution?

Mr. HILL. The Senator from Texas is correct. He knows that as late as 1959 there was a North Carolina case in which the Court held the literacy test to be proper; and the Senator from Texas also knows that if there is to be a change in the Constitution, the Constitution itself provides the means for changing it—namely, the constitutional amendment method as provided in the Constitution itself.

Mr. CARROLL. Madam President, will the Senator from Alabama yield?

The PRESIDING OFFICER. Does the Senator from Alabama yield to the Senator from Colorado?

Mr. HILL. I yield.

Mr. CARROLL. In view of the fact that my name has been mentioned, let me say that there is no doubt that Congress has no power to pass unconstitutional legislation; and I do not contend at all that Congress does have such power.

But I contend that in this case there is an evidentially sufficient finding of fact by Congress that this measure does not constitute a qualification which interferes with the constitutional provision.

Furthermore, in my opinion Congress has ample constitutional authority to pass this proposed measure.

It is for each Senator to weigh the constitutional issues here discussed and then for the Senate to vote its convictions and work its will.

It seems to me to be in the interest of the rights of hundreds of thousands of American citizens who are being denied the right to register to vote, for Congress to pass this measure, inasmuch as the evidence in support of it is ample. Obviously those who cannot register cannot vote.

This matter has been thoroughly considered, and the evidence is available. The Senator from Alabama may not agree with me; nevertheless, the evidence is in, and we are about to make a finding.

It is my firm belief that this measure is constitutional, and that it will confer great benefits to hundreds of thousands of Americans who now are denied their fundamental constitutional right to vote.

I thank the Senator from Alabama for yielding to me.

BILLIE SOL ESTES CASE

Mr. WILLIAMS of Delaware. Madam President, yesterday, in a press conference, Secretary Freeman, while admitting that certain high officials in the Department of Agriculture had been accepting lavish gifts from Mr. Billie Sol Estes, insisted that no favoritism had been shown to Mr. Estes in his dealings with the Department of Agriculture.

Madam President, the Secretary of Agriculture is mature enough to know that when any private citizen gives a mink coat, a deep freeze, a vicuna coat, a rug, or suits of clothes to Government officials, he expects and usually gets something in return.

Notwithstanding Secretary Freeman's reluctance, Congress has no alternative other than to proceed with its full-scale investigation.

At this point I ask unanimous consent to have printed in the body of the RECORD a timely editorial apearing in today's issue of the Washington Daily News entitled "The 'Balloon' From West Texas."

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

THE "BALLOON" FROM WEST TEXAS

Agriculture Secretary Orville Freeman says the Billie Sol Estes case has been "ballooned all out of importance."

How can he tell?

W. P. Mattox, vice chairman, says his county committee approved the transfer of valuable cotton acreage to Estes, despite suspicions, because it was required to under Agriculture Department regulations. Mr. Freeman says no one knows what instructions were issued the county committee because the man who issued the instructions was found dead in a field.

The Secretary says he has evidence that three employees of his Department "possibly" received favors from Estes, but no evidence that any of them did anything for him, or that the Department showed Estes any preferences.

But Estes did get acreage transfers, worth some $500,000 to him, which the attorney general of Texas says were illegal and which involved some most extraordinary manipulation. He did get most of the cash he used for his other schemes from storing Government grain, for which he posted a bond about a fifth as much as normally required. He was appointed to Mr. Freeman's National Cotton Advisory Committee, despite an adverse report on him from the Department's only investigators. And he did a lot of bragging about "payoffs" and big contributions to the Democratic Party.

The Billie Sol Estes case has ramifications beyond the Agriculture Department, but the grain storage program involves much more than Estes. If Estes could get away with acreage transfers the Texas attorney general says were illegal, could there have been other such instances? In the absence of an unflinching investigation, who knows?

This is no inquiry to be run by boys. It needs the rapt attention of a stouthearted congressional committee, armed with subpena power, staff and energy to plow through all the furrows and dust heaps. And such a committee should be busy now—before the dust piles higher.

TRIBUTE TO REPRESENTATIVE WILBUR DAIGH MILLS

Mr. WILLIAMS of Delaware. Madam President, recently the American Good Government Society, at its annual meeting held at the Sheraton-Park Hotel, presented a Good Government Award to Congressman WILBUR D. MILLS, of Arkansas.

In this award they paid well-deserved tribute to the outstanding service which WILBUR MILLS is rendering to the people of Arkansas and to his country.

It was my privilege to have the honor of presenting this award to Congressman MILLS, and at this point I ask unanimous consent to have my remarks on that occasion, followed by a copy of the award, printed at this point in the RECORD.

There being no objection, the remarks and resolution were ordered to be printed in the RECORD, as follows:

It is difficult to imagine how the American Good Government Society could have chosen a more appropriate or a harder working Member of Congress to honor tonight with its George Washington Award than the man I am privileged to introduce to you now.

I have chosen the words "appropriate" and "hard working" not as simple adjectives to be used loosely, but because they are so particularly fitting and descriptive of the man to whom I refer.

WILBUR D. MILLS is the Representative in Congress from the Second District of Arkansas. And although one of his finest attributes is the outstanding manner in which he serves his constituents as their representative in Congress, this would not begin to tell the story of his achievements and abilities if we were to stop there.

WILBUR MILLS is also the chairman of the House Committee on Ways and Means, easily one of the most important committees on either side of the Capitol. And as chairman of that powerful committee, WILBUR MILLS is literally at the focal point of legislation dealing with the extremely complex and intricate body of laws governing the Nation's taxes and tariffs.

WILBUR MILLS' philosophy of taxation is best understood by quoting direct from one of his recent statements: "I believe that the function of taxation is to raise revenue. That may sound obvious, but I say it to make clear that I don't go along with economists who think of taxation primarily as an instrument for stimulating, braking, or otherwise manipulating the economy."

As a member of the Senate Finance Committee, I have worked with WILBUR MILLS on innumerable occasions, particularly in conference on tax bills when different versions have been approved in both the House of Representatives and the Senate. A more astute and knowledgeable man, a more competent authority on the patchwork of laws, which we call the Internal Revenue Code, would be difficult if not impossible to find.

I have no difficulty whatsoever as a Republican Member of the Senate in expressing my admiration and high esteem for this highly qualified Democratic Congressman from Arkansas. His devotion to what at most times can best be called a thankless job, and his unending patience in dealing with the tremendous pressures which are brought to bear on a man in his responsible position are a tribute, both to the man himself, and to the good judgment of the people of Arkansas who have sent him to Washington as their representative since 1938.

I am highly honored and proud to read this resolution of tribute and honor to WILBUR DAIGH MILLS, Representative in Congress from the State of Arkansas:

"RESOLUTION OF TRIBUTE AND HONOR TO WILBUR DAIGH MILLS

"Statesman and patriot, lawyer and eminent authority on the tax laws of the National Government, has served the people of Arkansas and of the United States in the House of Representatives for almost a quarter century, since January 1958 as chairman of its Committee on Ways and Means.

"His profound knowledge of our patchwork system of taxation, uneven, unfair, and unwise in its burden on the people and their livelihoods, caused him to undertake a monumental study, looking toward a comprehensive and constructive tax reform which will reduce tax rates without sacrificing necessary revenues. His prudence and painstaking care combine to inspire confidence in his approach to the work of his committee.

"Chairman MILLS can be relied upon to urge a system of taxation that will encourage the formation of capital—the true source of economic growth—for the general welfare of our country. Arkansas is proud of this distinguished son whose knowledge and ability are acclaimed widely in and out of Congress. His State and the Nation look to him to lead the way in making fair and wise tax reform a reality."

SUGAR LEGISLATION

Mr. CHURCH. Madam President, I am indeed pleased to note that the representatives of all segments of the domestic sugar producing and refining industry late last week presented to the administration a compromise proposal on sugar legislation which there are compelling reasons to believe has every chance of forming the essence of an acceptable sugar bill.

The industry compromise provides that new basic quotas for the domestic producing areas, both continental and offshore, would add up to 60 percent of the total quotas. At the present consumption level, 9,700,000 tons, the domestic producers thus would be permitted to supply 5,820,000 tons. For the various individual areas, the basic quotas would be: For the domestic beet sugar area, 2,655,000 tons; for the mainland cane sugar area, 895,000 tons; for Hawaii, 1,110,000 tons; for Puerto Rico, 1,145,000 tons; and for the Virgin Islands, 15,000 tons.

Future growth of the U.S. sugar market would be divided 64 percent to the continental beet and cane areas, and the remainder to foreign nations.

All deficits in domestic quotas would be allocated to foreign nations, in contrast to the present method of giving domestic areas the first opportunity to fill deficits in quotas of other domestic areas.

The fully refined sugar quota of 375,000 tons formerly held by Cuba would be eliminated permanently. It is now not effective, of course, because no Cuban sugar, either raw sugar or refined sugar, is being imported.

Madam President, those are the principal features of the industry compromise proposal.

All segments of the domestic producing and refining industry informed the executive branch that they could uni-

fiedly support a measure which contained those provisions.

They also informed the executive branch that there are extreme doubts that the diverse segments of the industry could muster unified support for any proposal that offered less than 60 percent of basic quotas to domestic areas or less than 64 percent of future growth, or that removed less than the 375,000-ton refined sugar portion of the former Cuban quota.

I am pleased to join my distinguished colleague, the Senator from Minnesota—whose position in the majority leadership of this body enables him to speak with great authority—in the hope he expressed publicly in the press Friday, that the administration will present a bill to the Congress embodying the minimum features I have outlined.

Madam President, I also wish to commend the representatives of the domestic sugar industry and the representatives of the executive branch for the fine spirit of accommodation displayed in approaching the problems of satisfactory sugar legislation. I know that we all recognize that the prospects for passing effective long-range sugar legislation before the June 30 expiration date of the present law are tremendously enhanced when unified industry support is assured. In fact, Madam President, I know I share the views of many of my colleagues on both sides of the aisle in expressing grave doubts that long-range legislation will be passed at this session unless those broad areas of agreement are maintained.

Mr. HILL. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HILL. Madam President, I ask unanimous consent that further proceedings under the call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT TO 11 O'CLOCK A.M. TOMORROW

Mr. HILL. Madam President, pursuant to the order entered yesterday, I move that the Senate adjourn until 11 o'clock a.m., on tomorrow.

The motion was agreed to; and (at 5 o'clock and 16 minutes p.m.) under the order of Monday, May 7, 1962, the Senate adjourned until tomorrow, Wednesday, May 9, 1962, at 11 o'clock a.m.

HOUSE OF REPRESENTATIVES

TUESDAY, MAY 8, 1962

The House met at 12 o'clock noon.

The Chaplain, Rev. Bernard Braskamp, D.D., offered the following prayer:

Psalm 116: 1: *I love the Lord, because He hath heard my voice and my supplications.*

O Thou who art continually inviting and commanding us to call upon Thee in prayer, what have we that Thou dost desire and what can we render unto Thee that is not already Thine own?

May we understand more clearly that our attitude and approach to Thee must always be one of reverence and humility, of trust and obedience, if we are to lay hold of the resources of omnipotence and conquer the doubts that darken, and the fears that frighten us.

Grant that in these bleak and bitter times we may be fervent in the love that seeketh not its own and faithful in following courageously the pathways of hope and faith which Thou hast marked out for us.

Hear us in Christ's name. Amen.

THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

QUESTION OF THE PRIVILEGE OF THE HOUSE

Mr. JOHNSON of Maryland. Mr. Speaker, I rise to a question of the privilege of the House.

The SPEAKER. The gentleman will state his question of privilege.

Mr. JOHNSON of Maryland. Mr. Speaker, I have been subpenaed to appear before the grand jury of the circuit court for Montgomery County, in Rockville, Md., on May 8, 1962.

Under the precedents of the House, I am unable to comply with this subpena without the consent of the House, the privileges of the House being involved. As I wish to cooperate in this matter, I therefore submit the matter for the consideration of this body.

Mr. Speaker, I send to the desk the subpena.

The SPEAKER. The Clerk will read the subpena.

The Clerk read as follows:

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MD.

To the SHERIFF OF MONTGOMERY COUNTY, Greeting:

You are hereby commanded to summon Hon. THOMAS F. JOHNSON, Berlin, Md., or 2100 Massachusetts Avenue NW., Washington, D.C., of Montgomery County, to appear before the circuit court for Montgomery County, to be held at the courthouse in Rockville, in and for said county, on the 8th day of May next, at 9:30 a.m., to testify for grand jury and have you then and there this writ.

Witness, the Honorable Patrick M. Schnauffer, chief judge of our said court, the 5th day of May 1962.

Issued the 30th day of April 1962.

CLAYTON K. WATKINS, *Clerk.*

L. T. KARDY, *State's Attorney.*

Mr. ALBERT. Mr. Speaker, I offer a privileged resolution (H. Res. 628) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

Whereas Representative THOMAS F. JOHNSON, a Member of this House, has been served with a subpena to appear as a witness before the circuit court for Montgomery County, Md., to testify at Rockville, Md., on the 8th day of May 1962, before a grand jury; and

Whereas by the privileges of this House no Member is authorized to appear and testify, but by order of the House: Therefore be it

Resolved, That Representative THOMAS F. JOHNSON is authorized to appear in response to the subpena of the circuit court for Montgomery County, Md., at such time as when the House is not sitting in session; and be it further

Resolved, That as a respectful answer to the subpena a copy of these resolutions be submitted to the said court.

The resolution was agreed to.

A motion to reconsider was laid on the table.

COMMITTEE ON BANKING AND CURRENCY

Mr. ALBERT. Mr. Speaker, on behalf of the gentleman from Kentucky [Mr. SPENCE], I ask unanimous consent that Subcommittee No. 1 of the Committee on Banking and Currency may be permitted to sit today during general debate.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

COMMITTEE ON THE JUDICIARY

Mr. LOSER. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may have permission to sit while the House is engaged in general debate on Thursday next.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

LAOS

Mr. POFF. Mr. Speaker, I ask unanimous consent to address the House for 1 minute and to revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. POFF. Mr. Speaker, it is time for a change in America's foreign policy in Laos. A year ago the State Department decided to neutralize the country by persuading the anti-Communist Lao Government leaders to accept in a coalition government an unholy partnership with the Communist rebels. When the anti-Communists rejected persuasion, America resorted to coercion by withdrawing military foreign aid and military advisers.

The Communist forces, which apparently were willing if not eager to accept a coalition government which sooner or later they could dominate, have now broken the cease-fire and renewed their aggression.

In South Vietnam, America pursues a policy of firm resistance to Communist aggression. Why should our policy in Laos, which borders Vietnam and through which passes a supply line between Red North Vietnam and Communist guerrillas in free South Vietnam, be any different, especially when Laos is the strategic key to the entire Indochina peninsula?